SUBMISSION

OF

CANADIAN PACIFIC RAILWAY COMPANY

TO THE

ROYAL COMMISSION ON TRANSPORTATION

PART II

MONTREAL, QUE.,
OCTOBER, 1949

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CANADIAN PACIFIC RAILWAY COMPANY
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PART II

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APPENDIX TO PART II

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PART II

Mr. Chairman and Commissioners:-

So many submissions have been made by the Provinces and by others during the hearings of your Commission and in their final briefs that Canadian Pacific deems it impracticable to follow in this part, the form of Part II of its Outline Submission. It was therefore deemed unnecessary to repeat, as was done in Part I of this Submission, the specific paragraphs of Part II of the Outline Submission. Canadian Pacific, however, does not abandon any of the submissions therein made. For the convenience of the Commission and in order that all of the submissions of Canadian Pacific may be available in one place, Part II of the Outline Submission of Canadian Pacific is repeated as an appendix at the conclusion of this part.

The following additional submissions are made in answer to the principal submissions made to your Commission by provincial governments and others during the regional hearings and in their final briefs. For convenience these additional submissions will be divided into sections by subject matters.

It has not been possible in the time available to answer in detail the submissions made by others to your Commission. Canadian Pacific does not desire to be taken as acceding to any of the submissions to which it does not make specific replies.

REGULATION OF RAILWAYS IN CANADA AS PROPOSED BY PROVINCIAL GOVERNMENTS AND OTHERS

It has been difficult to select from among the various submissions presented to your Commission any entirely complete plan for revision of the regulatory powers of the Board in the matter of regulation of railways. For this reason and because of the fact that the Brief of Manitoba covers the ground more completely and indeed goes further than any other single submission, the principal references in the submissions which follow will be to the Brief of Manitoba.

Railways as Instruments of National Policy

The basic concept underlying the plan of regulation put forward by Manitoba can be found beginning at the bottom of page 6 and continuing to page 8 of Chapter I of Manitoba's Brief. The following statement is made:-

> "That it is an historic fact that railways have always been regarded by the Dominion Government as instruments of national policy. To view them in any other way would be folly, because of the size of those railway systems, the strong quasi-monopolistic position which they occupy in many parts of the country, and the almost complete dependence of certain areas, notably the Prairies, upon the railways for the provision of transportation services for their major products. This means that in Canada, railways cannot be regarded merely as business enterprises which are entitled to maximize their profits by applying strictly business principles without regard to regional needs, or national policy."

On page 7 Manitoba's creed is stated as follows:-

> "The Government of Manitoba therefore takes the view that the Canadian railway system and the companies which operate it, must be regarded as national instruments which must be used in an equitable manner, having regard to the aims of national policy, the needs of regional development, and the maintenance of a satisfactory standard of service."

The Brief goes on to point out that Manitoba however believes that the Canadian Pacific should continue to operate as a privately-owned system within that framework.

The Province of New Brunswick arrives at the same result

by a slightly different process of reasoning. The argument of that Province (see Transcript p. 3982) is that the railways are part of the national policy and should be coordinated with other government policies. This in effect means that railway rates on manufactured goods should be low to offset the difference in price between goods produced by Canadian manufacturers on the one hand and United States manufacturers on the other. Indeed, the idea was fairly definitely put forward that the freight rate structure should be a principal means by which the burden of the tariff on the Maritime Provinces should be lightened. In this view the earnings of the railways or the lack of them would be a matter of negligible importance.

In approaching an answer to the scheme of regulation which is built upon this concept, Canadian Pacific believes that it is necessary to point out that this basic concept is fundamentally socialistic and that it is, both as to fact and as to theory, a completely unsound basis upon which to approach an argument as to what should be the scheme of regulation of railways in Canada.

In arguing that railways have historically been instruments of national policy, Manitoba assumes that because a railway was an instrument of public policy to the extent that governments found it necessary to subsidize their original construction, that aspect of instrumentality is synonymous with complete instrumentality. In effect Manitoba argues that a railway has no other function than as an instrument to be used by the Government of Canada for purposes of national policy in disregard of ordinary business standards.

History shows, in the submission of Canadian Pacific, that the use of subsidies to promote the building of railways was as a rule limited to grants at the inception of construction.

Canadian Pacific elsewhere in its submissions to your Commission has given its view in general on the question of subsidies. It is one thing, in the view of Canadian Pacific, to grant subsidies at the time of initial construction or in a time of national emergency and quite another thing to make subsidies a matter of continuing national policy. It does not follow that, because the initial construction of railways had to be encouraged and indeed could only have been accomplished through government subsidies, this justifies looking upon the enterprise as a continuing instrument of national policy. The implication of this argument is that having granted subsidies, the government acquired a right to manage but without the responsibility of management which goes along with ownership.

Manitoba goes on to argue from the importance of the position which railways occupy in relation to the public that they must necessarily be used as instruments of public policy. This, in the opinion of Canadian Pacific, is simply a non sequitur. The question is not whether railways should be regulated because of their importance to the public but rather how much regulation should properly be imposed. The justification for regulation is that of protecting the public from possible abuses of the admittedly quasi-monopolistic position which railways occupied, particularly in the early days, and which they probably still have in relation to long haul traffic on at least basic commodities.

The issue is one as to whether it is possible to extend the regulation of railways in keeping with Manitoba's concept while leaving railways or any of them in private hands.

Manitoba's approach to the question of regulation is further amplified in Chapter II where the following statement is made at page 1:-

"The foundation of the concept of regulation

> of public utilities lies in a public recognition that the function of meeting certain of the community's economic needs will not be fulfilled adequately unless certain restraining influences are introduced."

The Brief goes on to point out that although in most of the fields of economic activity the restraining influence is provided by the pricing mechanism, it has

> "long been recognized that public supervision in one form or another is required in those activities where the impersonal mechanism of the market has led to results which society finds unsatisfactory. The origins and development of public utility regulation can be explained largely in these terms."

On page 2 of Chapter II reference is made to the extent to which the economy of the country is dependent upon railways, and the suggestion is made that "in many areas the standard of rail service and the rates charged for that service almost completely determine the standard of living..."

On page 4, after reviewing the dependence of Canada upon the railways, the view is put forward by Manitoba that the Board of Transport Commissioners should be charged with the responsibility of deciding both the quality of railway service to be provided and the rates which are to be paid for that service.

In the submission of Canadian Pacific these generalities are far too sweeping upon which to base any theory of regulation. Note particularly the extravagant statement that the standard of rail service and rates almost completely determines the standard of living in many areas. If one accepts the theory outlined in this part of Manitoba's Brief, one cannot but conclude that one could not have in Canada any privately-owned railway system. This is because the whole theory involves subordinating ordinary business principles to the overriding principle of treating the railway as the instruments of national policy. In the opinion of Canadian Pacific it is not possible for private enterprise to function

in this capacity. Neither is it possible so to regulate private enterprise as to carry out such a concept without substituting for the judgment of the management of the railways the judgment either of the Government or of a tribunal appointed by the Government.

On pp. 3 and 4 the argument of Manitoba is further elaborated and the conclusion reached that "in a regulated field of enterprise the public should not be forced to accept the particular quality of service decided upon by the seller".

This is, in effect, an argument that since the railway is an instrument of national policy and, as such, must be regulated and, since it is a quasi-monopolistic enterprise with regard to which ordinary competitive influences cannot work, the public cannot be forced to accept a quality of service which the railway chooses to offer.

While conceding that this is true to a limited extent in the sense that may require that the regulatory body should ensure that the railways give adequate service at reasonable rates, Canadian Pacific points out that the argument of Manitoba proceeds to a more far-reaching conclusion than that.

Canadian Pacific submits that it is clear that the Board of Transport Commissioners has adequate power under the Railway Act to ensure that the standard of service given by the railways is adequate for the needs of its customers and to ensure that the level of rates charged by the railways for their services are just and reasonable. Canadian Pacific believes that it is unsound and indeed unnecessary to carry regulation to a point beyond this. This is a very different concept from the more sweeping conclusion that since regulation is to be undertaken for that purpose it also should go to the length of specifying standards of maintenance, standards of service and all the other attributes of the system of regulation which Manitoba advocates. Canadian Pacific believes that private enterprise in the railway

field does require regulation but that the need for regulation becomes less and less as the railways lose their position of semi-monopoly in the presence of increasing competition of other forms of transport. Regulation should be no more than is necessary to ensure protection of the public against abuses.

Within the framework of the protection which the shippers already get under the Railway Act, the railway should be free to give the quality of service which will induce the shippers not only to use its service in preference to other railways, but to use its service in preference to competing carriers.

Competition in service, rather than the adherence to a strict standard laid down by a regulatory tribunal, will provide the incentive by which in the end, the quality of service for a given level of rates will be maintained at the highest level. Moreover, Canadian Pacific believes that the fixing of a standard of service by a regulatory tribunal which has no responsibility directly to the owners of the railway property, would tend to stultify and restrict the process by which management brings about an increase in efficiency and accomplishes savings in operating expenses.

Viewing the matter from a strictly logical and practical standpoint it can be said without fear of contradiction that it is in the railways' interest to see that the service given to its customers is such as to permit not only the movement of the maximum amount of traffic but to permit the railways' customers to do the maximum amount of business. It is most improbable that in these circumstances railways will either overcharge or undercharge their customers nor will they be likely to provide a higher standard of service than is necessary. Even those who condemn the profit motive condemn it on the

ground that it involves the possibility that those who are actuated by the profit motive will provide the minimum of service at the minimum of cost. It thus cannot be argued that private ownership of railways is likely to result in a higher than desirable standard of service. On the other hand, competition both from other railways and other forms of transport will compel a better standard of service than the minimum. If anything further is required in this respect, the users of railway service are ensured by the Railway Act that the standard of service to be provided for them will at all times be adequate for their needs.

Section 312 is the clearest example of the broad powers of the Board in this connection. By that section the company is required to furnish adequate and suitable accommodation for the carrying, unloading and delivering of traffic; and to furnish and use all proper appliances, accommodation and means necessary for these purposes. The service is to be furnished without delay and with due care and diligence.

By Subsection 3 of that Section the Board as it deems expedient may prohibit or limit the use of equipment, apparatus, machinery or devices not equipped as required by the Act.

By Subsection 5 the Board may order the company to regulate the running of its trains so as to afford opportunity for the transfer of passengers and mail and the Board may order the company to furnish reasonable facilities and accommodation for such purpose.

By Subsection 6 the Board may order that specific works be constructed or carried out or that property be acquired or that specific tolls be charged or that equipment be allotted, distributed, used or moved as specified by the

Board or that any specified steps, systems or methods be taken or followed.

A large number of other sections appear in the Act giving the Board the broadest kind of powers to ensure that the railways supply an adequate standard of service.

Thus three influences operate for the protection of the customers of the railway. First, it is in the railways' interest to ensure that the maximum amount of traffic is moved; second, it is in the railways' interest that this traffic be moved as efficiently as possible and at the lowest cost; and third, the powers of the Board are such as to ensure that the service shall not be reduced below an adequate basis by the operation of the profit motive.

These considerations will provide any necessary brake to prevent the railways from providing service which will be either extravagant or inadequate. It follows that the ordinary use of business judgment operating within the regulations which the Board is empowered to make under the Railway Act, are far better means by which to fix the standard of service than any scheme by which specific standards of service are prescribed by a regulatory board.

On page 5 of Chapter II of the Manitoba Brief, the assertion is made that in the early days of the development of the country and of the railways, the principal concern was not rates or inequalities in rates, but the need for having a railway.

Canadian Pacific submits that while this may to some extent have been true in the early days, this simply could not have been true as soon as any population had been installed in the area served and had begun to produce commodities. The history of the disputes before the Board of Transport Commissioners indicates very clearly that for the past fifty

years the public of this country has been very materially interested in the nature of railway service and in the level of railway rates.

On page 8 of Chapter II the Brief of Manitoba attempts to point to the need for a shift in the nature of regulation. In reaching this conclusion, the argument is made that the continuous and efficient operation of railways is vital; that the railways are no longer spearheading the national development; that their prime function is to serve existing communities effectively; that the direction and nature of changes and improvements will no longer be so closely connected with railway building; and that the manner in which existing railway lines are to be used will be "a paramount issue".

In the view of Canadian Pacific one of the principal faults with the reasoning which underlies Manitoba's Brief is that Manitoba argues from a factual base with which relatively little fault can be found, to a conclusion which does not flow from those facts.

Further, on the same page, Manitoba attempts to argue that because of the changes outlined in the function of a railway, changes in the regulatory policy are necessary. Canadian Pacific, on the other hand, submits that the changes which have taken place in the transportation field since the early days of construction, give rise to conclusions diametrically opposed to those derived from the same facts by Manitoba. Canadian Pacific submits that these changes have narrowed, not broadened, the field in which railway management as such requires to be controlled and interfered with by the regulatory process. Management has now, more than ever, an important function to perform. In the face of competition from newer forms of transport, the need has arisen to make use of the most efficient methods, equipment and facilities that can be devised. These new and more efficient

methods and facilities have indeed been developed by private management of railways principally as their reaction to changing conditions so as to maintain a more efficient service in the face of rising competition and rising costs of operation. Canadian Pacific does not believe that this process can continue under any system under which management is not left free to take decisions in connection with such matters as the standard of service, the need for improvements and the like, which the concept of Manitoba would prevent.

In Canadian Pacific's view the extension of the regulatory process as proposed would not encourage and indeed would prevent railway management from exercising good business judgment, administrative skill and initiative. Therefore, for the very reasons advanced by Manitoba, Canadian Pacific submits that regulation should not be extended, but should be curtailed, leaving to management as far as is possible, a free rein to exercise good business judgment and to develop more efficient processes and methods.

Canadian Pacific asks your Commission to consider in a broad way the extent to which the Submission of Manitoba would encroach upon the powers of management.

First: On page 10 of Chapter II while conceding the right of railway companies to an adequate scale of remuneration, Manitoba argues that the nature of the transportation service should be determined to a larger extent than in the past by a body "representative of the public"; that the distribution of costs necessary to the performance of this function should likewise be determined to a larger extent by someone other than the railway management; and that the regulatory body will have as one of its main problems that of determining how much money the railways need for that purpose.

Second: On page 11 of Chapter II the view is expressed that the Board should be "in a very real sense a policy making

body as well as a judicial and administrative organization"; that "the final responsibility for public policy decisions in this field must rest with the highest policy-making body, namely the Dominion Government."

<u>Third</u>: On page 15 of the same chapter, objection is anticipated that the proposals made by Manitoba will involve restrictions on the managerial function of the railways and the Brief hastens to point out that "there is no intention that managerial decisions should be held up until they have first been ratified by the administrative tribunal."

The Brief goes on:-

> "Rather, management would be expected to carry on the day to day operations of the railways as before, but the Board would be required to see that the cumulative effects of those day to day decisions do not run counter to considerations of public policy."

When this apparent qualification is analyzed, however, Canadian Pacific feels that your Commission will have no difficulty in seeing that although management may make day to day decisions without prior approval of the Board, the taking of those decisions must inevitably be affected by the knowledge of management that their decisions may be rejected when the Board gets around to reviewing them. A more stultifying effect could hardly be imagined. If management must make decisions in the knowledge that its decisions may be overruled by a regulatory tribunal, then management must inevitably refuse to take the responsibility of making anything more than the barely essential decisions from day to day. This, in the submission of Canadian Pacific, is one of the objections to the socialistic concept. The fear of being overruled by an outside tribunal or a political body would tend to curtail and restrict the initiative of management and to restrict the function of management to essentially clerical and technical matters.

Fourth: On page 1 of Chapter III, Manitoba takes the position that "it is self-evident that the people of Canada must pay for the transportation service which is provided to them." The argument then goes on that since this is true, the people of Canada as a whole "have a right and duty to insist that the standard of service which is provided is satisfactory and that it is provided at the least possible expense to those who must pay for it."

Manitoba argues from an acceptable base to an unacceptable conclusion. The concept is really whether a regulatory tribunal possessing the powers which Manitoba advocates, can ensure adequate service at reasonable rates by usurping what would normally be the functions of management. In Canadian Pacific's view, management can provide these things much more efficiently under a minimum of regulation, rather than an increasing amount of regulation.

Fifth: On page 3 of Chapter III the extent to which management is to be subservient to the regulatory tribunal and to the Government becomes clear. At that page and on page 4 of the same chapter the relationship between the people of Canada and the railway system is said to be analogous to that of the relationship existing between a retail merchandise establishment and its delivery system. An elaborate argument is made to show that the General Manager of the enterprise would need to assert his authority over the manager of the transportation department in order to see that the activities of the transportation department, or "delivery department" as it is called in the Brief, are not inconsistent with the needs of the whole company.

On page 4 the following view is expressed - "It is our view that Canada's railways have now reached that position."

The attention of your Commission is drawn to this

suggestion that the role of the General Manager of railways is to be assumed by the Government. Note that in the case of the private business establishment, the General Manager of the establishment is responsible to the owners of the enterprise. Placing the Government in the role of General Manager must, in order to make the analogy sound, therefore assume that the Government as General Manager is in effect responsible to the owners of the railway enterprise. Here again we have the concept to which earlier reference has been made, that because of the early subsidization of the railways and their importance to the people of Canada, the public have attained the position of something like ownership and that their interests are paramount. In this concept the railways perform the function merely of managers of the "delivery" department.

Your Commission's attention is also drawn to the fact that the purported analogy completely overlooks that in the case of the business enterprise, the management as a whole has the responsibility of carrying it on at a profit. It is only proper that the "delivery" department must fit in to that policy. Canadian Pacific submits that it is unsound to approach the question of railway regulation on any theory that the Government is to be the General Manager and that the railways are merely a department of the Government. This is wholly inconsistent with the operation of a railway company as a private enterprise.

From this argument Manitoba proceeds to suggest that the rate of expansion of railway facilities and the standard of service "is no longer a problem which can be safely left exclusively in the hands of railway management. It must now be considered as part of the overall national economic policy".

Sixth: On page 6 of Chapter III reference is made to the possibility that railways might feel that an improvement

program should be undertaken and might ask for a rate increase to cover its cost. The inference is thus created that such programs should be restrained.

In passing Canadian Pacific points out that railways have never asked for an increase in their rates to cover the cost of an improvement program. Presumably the reference in this part of the submission of Manitoba is to the evidence adduced by the Canadian Pacific in the 20% Case as to the necessity over the next few years of a large program of capital improvements. There was some attempt in the 20% Case, and this seems now to be renewed before your Commission, to suggest that such a program is put forward to justify a rate increase. Details of the program have been given to your Commission in Part I of this submission and are referred to in more detail in the transcript in the 20% Case.

In order to set at rest any possibility of doubt as to the purpose of this evidence, Canadian Pacific points out that it was intended in the 20% Case to show the need of Canadian Pacific to have its credit restored to a point where it could attract capital to the enterprise. Canadian Pacific pointed out that until the investing public regained confidence in the earning power of Canadian Pacific, programs of this kind, producing as they are intended to do, increased efficiency as well as lower costs of operation, could not be achieved unless Canadian Pacific could attract to its enterprise the necessary capital. This, of course, is not at all the same thing as asking that rates be increased merely because capital monies need to be expended.

The suggestion of Manitoba would be to transfer to the Board of Transport Commissioners the function of determining whether this program is or is not necessary. Such a proposal means nothing more or less than that management should

be deprived of its ordinary function of determining as a business matter, what improvements are necessary in the interests of efficiency and economy.

Seventh: At the bottom of page 6 and continuing on page 7 of Chapter III of Manitoba's Brief, the suggestion is made that the Board must reach a conclusion as to the amount of money needed for the standard of railway service for the year under consideration; that the Board will inevitably find that it must make a careful analysis of railway expenditures; and that having arrived at a conclusion as to this, the Board can then calculate the total amount necessary to cover the expenses of providing the standard of service decided upon.

Canadian Pacific points out to your Commission in this connection, that the standards of service and the efficiency with which that service is provided, differ as between railways. Manitoba's concept of having the Board fix the standard of service to be provided can only be on the theory that the Board could make all managements equally efficient and make all standards of service equal. In the submission of Canadian Pacific this needs only to be pointed out in order that the fallacy of the whole scheme proposed by Manitoba may become apparent. Railways are, according to Manitoba, to be all the same in their standards of service and efficiency and presumably also in their cost of operation. No room is to be left to management to make any decisions which will be in conflict with those standards. In Canadian Pacific's view the moment that the Board sets up its own judgment against that of railway management it then becomes a substitute for private railway management.

Eighth: On page 8 of Chapter III Manitoba argues that in order to ensure the elimination of all unnecessary expenses with a view to securing the desirable standard of

service at the lowest cost, the Board should have the "authority and responsibility to see that the Canadian railways take full advantage of the equipment available to them and of modern improvements which will have the effect of providing a satisfactory standard of service at a lower cost."

Here again Manitoba would substitute the Board for railway management in the elimination of expenses and the use of equipment. On the following page, in referring to the efficient use of railway resources, it is argued that the question is not limited to the use of plant and rolling stock but applies to the use of labour as well.

On page 9 of Chapter III reference is made to the need of ensuring the efficient use of railway resources including the use of labour as well as the use of plant and rolling stock. The idea is expressed that there should be no unnecessary use of labour where mechanical devices will suffice.

A more clear exposition of socialistic theory could hardly have been made. Railway management is to be retained only for those matters which have to do with the day to day operation of the railway, but the use of plant and labour; the necessity for and extent of improvements; and all matters customarily associated with the function of railway management are to be turned over to a board with the "authority and responsibility" of making the decisions.

Canadian Pacific has no means of meeting contentions of this kind save to reassert its belief in private enterprise and its view that the socialization of the Canadian Pacific would not be in the public interest either from the standpoint of the standard of service or from the standpoint of the lowest possible cost of providing that service.

Ninth: On page 7 of Chapter V the recommendations begin

with a proposal to amend the Railway Act giving the Board "the authority and responsibility for setting the retirement and renewal practices to be used for rate making". Manitoba recommends that such authority and responsibility should not be "in the hands of any interested parties either the railways or the users of the service". Your Commission will note the use of the words "authority and responsibility" as distinct from the authority to regulate and also that the authority and responsibility is not to be in the hands of either the railways or the users of the service. The inconsistency as well as the unsoundness of Manitoba's position is evident from this language when read in conjunction with the other parts of its submission. Manitoba has argued that Government should occupy the role of general manager and that the Board should have among its functions that of ensuring that government policy is carried out.

On page 7 of Chapter V, however, Manitoba suggests that the authority and responsibility should neither be in the hands of the railways nor in the hands of the users of the service. If the users of the service are to be the prime consideration of the government as general manager, what Manitoba's proposal means is that the authority and responsibility shall be in the hands of the users of the service, through the Board as agent of the Government. This is entirely inconsistent with the submission made by Manitoba on page 7. The two submissions read together merely mean that the authority and responsibility with regard to retirement and renewal practices for rate making is to be in the hands of the users of the service and no one else.

If it is desired merely to regulate the retirement and renewal practices, this can be done in the ordinary process of regulation, but if it is to be done by a transfer of

"authority and responsibility" to the Board then, in the submission of Canadian Pacific, there is no longer any room for private enterprise. In Canadian Pacific's submission if regulation is all that is required the Board has now adequate authority but if the substitution of the Board for management is required, then obviously considerable changes in the existing law will have to be made.

Tenth: On page 4 of Chapter VII after discussing the difficulties of railway financing, Manitoba suggests that the Company and the users of the service need be protected against high interest rates.

Canadian Pacific hastens to agree with this as a matter of principle. It differs, however, with the proposal of Manitoba as to how this can be assured. In Canadian Pacific's view, the one way to ensure the public against rates based upon unduly high interest rates, is to correct the situation which produces them by removing the public distrust of the railway companies' ability to earn an adequate return on their investment. The solution of this difficulty is not to be found in further interference with management but in the recognition that management can achieve this result by sound business methods only if it can be assured of the ability to attract the necessary capital at reasonable interest rates.

Note that on page 5 of Chapter VII in the suggestions made by Manitoba with regard to railway financing, the inference is created that in the opinion of Manitoba, the management of Canadian Pacific has neither sufficient business judgment nor adequate ability to finance its requirements without the assistance of a regulatory tribunal. Note also that on page 7 the suggestion is made that if the Board should decide on a given improvement program, certain alternatives of financing should be resorted to. If these are not adequate then capital assistance

y the Dominion Government would require to be considered.

Canadian Pacific submits that these proposals are, ike others, a suggestion that railway management no longer an be trusted to carry on the railway business and that t is incompetent to finance it. Nowhere is there any recog- ition of the possibility that railways, like other businesses, eed to have a satisfactory credit position and that, having established that position, management can in future as it has n the past, finance its needs on satisfactory terms.

The proposal to substitute the Board for railway anagement in the many matters suggested by Manitoba, loses sight of matters of fundamental and practical importance. It is to be remembered that railway management has after years f training and experience acquired a knowledge and capacity to consider and resolve the many important managerial problems ith which it is continually faced. The Board has had no such training or experience and even with a large technical staff would be lacking in the necessary practical and technical knowledge and capacity.

<u>The segregation of funds as between those contributed by the owners of the railway property and those contributed by the users of railway service.</u>

There are at least four places in Manitoba's Brief in which reference appears to the need for segregating money received by a Railway Company as between that supplied by the owners and that supplied by the users.

The first of these is the statement on page 9 of Chapter 5 as follows:-

> " In accounting for rate-making purposes, the major issue is to keep a clear distinction between money belonging to and contributed by the owners of the corporation, and money belonging to and contributed by the users of the corporation. In its efforts to reach decisions on rate level matters, the Board of Transport Commissioners should require that these distinctions be drawn with particular clarity and particular precision in order that the users of the service will derive full credit for that part of the company's money which has been contributed by the users."

The second of these appears on page 3 of Chapter 7

where, after endorsing the traditional method of raising capital by the sale of securities on the capital market, the statement is made that "this is of great assistance to the Board in its efforts to establish a line of demarcation between money contributed by the owners of the corporation and money contributed by the users of the service."

The third of these references is found on page 6 of Chapter 7 where, in dealing with the matter of the use of accumulated surplus for financing requirements, Manitoba states that "In other words, the use of surplus in this way makes it very difficult to maintain the important segregation between money contributed by the owners and money contributed by the users".

The fourth place is page 11, Chap. 11. The following statement begins at the bottom of the page continuing over to the top of page 12:-

> " Having thus defined precisely the field which is to be covered, it is our view that the second major objective which should guide the Board in setting up a prescribed system of accounts, should be that of drawing clear distinctions between:-
>
> (a) Capital supplied by the owners of the corporation;
> (b) Capital supplied by the users of its service;
> (c) Capital from other sources".

Manitoba's basic concept is apparently, that money paid in freight charges by the users of railway services does not become the money of the corporation but is rather to be looked upon as a trust fund with regard to which the Railway Company is a trustee. It is exceedingly difficult to assess the implications of this proposal.

The first reference in Manitoba's Brief to which reference is made is in connection with the matter of depreciation. The second reference is in connection with the matter of surplus. Manitoba does not say whether its concept would involve such matters as segregation of the so-called "capital supplied" by the users of railway services for the purpose of determining the return on the net investment, or whether such capital is to be eliminated

from the investment so as to provide no return on it to the Company. In the submission of Canadian Pacific it is Manitoba's duty to make its position clear in this connection.

In the view of Canadian Pacific Manitoba's concept is basically unsound and is incompatible with the maintenance of private enterprise.

In the further submission of Canadian Pacific, Manitoba's proposal is unsound inasmuch as it involves a complete misconception of the extent to which the users of railway service require protection.

As regards the application of the segregation proposed by Manitoba to the matter of depreciation, the following submissions are made:-

Depreciation is only one of the many elements of costs of providing railway service. There is therefore no more reason to expect a special accounting with regard to that portion of operating costs represented by charges for depreciation, than there is for any other element of operating cost.

Depreciation charges are recovered only when rail revenues are sufficient to provide for all operating costs, including depreciation and as well as such additional requirements as fixed charges, dividends and a reasonable surplus. Until all such requirements are recovered, it is submitted that depreciation cannot be said to have been fully recovered.

The first problem in relation to depreciation is to determine as nearly as may be whether the rates of depreciation are proper and represent a reasonable estimate of the requirements for that purpose.

If the rates are higher than is needed there can be no doubt that the Board would intervene and even if Canadian Pacific did not itself adjust the rates, the rates would be adjusted by the Board. Moreover, if any excessive depreciation is recovered

pending the adjustment in the rates, that excess will be carried to the balance of the depreciation reserve and will be reflected in a reduction in the depreciated investment base upon which the Railway Company's return will be calculated. Similarly, any error due to under accrual of depreciation can be compensated for. Thus there is automatic provision in orthodox accounting and under the regulation of the Board of Transport Commissioners which provides wholly adequate safeguards to the users of transportation services.

Canadian Pacific also submits that Manitoba's position is academic because freight rates in the past have been insufficient to provide for all operating costs, including depreciation and for fixed charges, dividends and a reasonable surplus. This will be seen by reference to Exhibit (49)-49 in the 20% Case where in Statement A, footnote 2, it is shown that the deficiency in rail operations amounts to $9,895,117 since the inception of the Company. This deficit would become a deficit of $241,030,733 if there be taken into account the extent to which the Railway Company failed to provide for dividends at the level found by the Board to be proper.

Manitoba's statement that "these distinctions be drawn with particular clarity and particular precision in order that the users of the service will derive full credit" would appear to imply that it is possible to measure exactly the depreciation which has been charged in respect of property and equipment against the actual loss that has taken place in service value. In the view of Canadian Pacific this loss can only be established when the asset is retired from service and it would then only be possible if the Company maintained records showing the depreciation accrued in respect of each item of property while in service. In a corporation of the size of Canadian Pacific this manifestly is not practicable.

In any event the results would only indicate the extent to which depreciation provided, differed from actual loss sustained in respect of individual assets when retired. Such results would not be sufficiently indicative of the manner in which the depreciation accruals were keeping pace with the depreciation actually sustained by the assets as a whole.

The only practical way to measure the adequacy or otherwise of depreciation charges is through studies of the life of the group of assets. Such tests are continually being made by the accounting officers of the Company in conjunction with mechanical and other officers and the Board itself has given considerable attention to the matter and can continue to do so.

As regards the second reference to this matter in connection with surplus, it is difficult to understand how Manitoba can assert that any portion of such surplus belongs to the users of the railway services any more than that the surplus of any other private enterprise belongs to its customers. Prudently conducted business endeavours to make sufficient profit so that after paying dividends some earnings will be left in the company to provide for modernization and improvement of facilities. If surplus is not provided then additional financing will be necessary and this will involve additional fixed charges or dividend requirements. If fixed charges are continually increased by borrowings for these year to year requirements, they may in time of stress become disastrously high.

In summary, the following submissions are made:-

First, in order that any value could be derived from a segregation of monies as proposed by Manitoba it would have to be shown that railway rates are or will be more than is sufficiently remunerative to cover operating expenses, depreciation charges, fixed charges, dividends and a reasonable surplus. Until that has been attained there would be no credit balance in the

accounts under any such system of segregation. It has not been attained in the past three years nor will it be attained in the present year.

Secondly, the basic assumption of Manitoba is that railways are or will be imprudent in their use of earnings and that in consequence railway users require more protection than present bookkeeping methods, together with regulation by the Board of Transport Commissioners, will provide. In the submission of Canadian Pacific there is already adequate protection provided.

Thirdly, the fundamental question involved in Manitoba's proposal is whether over a period of years railway companies will obtain from their charges more than adequate revenue. In addition to the protection to which earlier reference has been made, users of railway service will undoubtedly obtain exactly the same results by adjustments downward in their freight rates as could be achieved by the complicated process of bookkeeping which Manitoba's proposal involves. Moreover, this objective will be obtained by the users of railway service automatically through the operation of the principle that when railway rates are more than adequately remunerative the Board will, as it has in the past, act to see that they are reduced to a reasonable level.

Fourthly, for the reasons given, the accounting procedure by which to achieve the result proposed by Manitoba would prove complex and indeed unworkable in practice. No standard is available for determining whether and to what extent deficiencies in earnings or surplus earnings should be applied to specific requirements. A far more realistic and practical result is obtained by the automatic adjustments which take place under orthodox accounting methods and under the regulation of the railways by the Board.

Fifthly, underlying the whole concept of segregation as proposed by Manitoba there is the unreality that railway services can be contracted and paid for but nevertheless remain open for

further settlement. No finality in ordinary day to day transactions would thereby be possible. In the view of Canadian Pacific, no one could seriously propose that if Canadian Pacific should be threatened with insolvency, it could call upon past shippers for payment of charges which are found to be unremunerative. It is equally absurd to conceive that shippers in the reverse situation would be entitled to rebates.

The p[illegible] of the Canadian National [illegible] of Freight Rates

On page 2 of Chapter IV of the Manitoba Brief the suggestion is made that the reasons for omitting the Canadian National from consideration as the yardstick in determining rate levels is because of the high level of its fixed charges. Canadian Pacific challenges the statement made in this section of the Brief that the level of fixed charges of the Canadian National is sufficient reason for rejecting that Company as a yardstick.

Canadian Pacific is, of course, not directly concerned with the level of fixed charges of the Canadian National. There is, in fact, no need to consider the fixed charges of the Canadian National or of any other railway in rate-making. There is, however, a need to consider a fair return on the property investment. Canadian Pacific does not presume to say whether the level of property investment in the Canadian National as shown by its books is the proper level upon which to calculate such a return.

Canadian Pacific points out that the danger of a high level of fixed charges for a privately owned company is that in bad times the company may be unable to meet those fixed charges. Thus a private enterprise may be faced with disaster unless its fixed charges are kept within reasonable limits and unless it is able to obtain a sufficient supply of equity capital. In the case of the Canadian National, a publicly owned enterprise, the ordinary risks of a high level of fixed charges do not apply. Unless the Canadian National is allowed to earn a fair return on a reasonable level of property investment the fixed charges of the Canadian National will continue to grow.

Manitoba on page 3 of Chapter IV of its Brief suggests that if the Canadian National were allowed to earn sufficient to pay its fixed charges, this would provide the Canadian Pacific with too much profit.

The Canadian National's fixed charges at present amount to slightly over $46,000,000 per year. The net investment of the Canadian National as put in evidence in the 20% Case was $1,856,421,080 (p. 4746 of the Transcript). Even assuming a substantial revision of this investment to leave out lines that should not be taken into account for the purpose of fixing a proper level of earning power, the net investment of the Canadian National must inevitably be greater than that of the Canadian Pacific at $1,021,184,196 (p. 4673 of the Transcript in the 20% Case).

Net railway earnings of $46,000,000 would fall short of providing a fair return even on the much lower net investment of the Canadian Pacific. During the years 1941 to 1947 inclusive which include the peak wartime earnings as well as the deficiency years 1946 and 1947, the average yearly net railway earnings of Canadian Pacific, after income tax, (see Digest of Development page 27 of the Appendix to part 1 of this Submission) amounted to $37,782,773. In the same period the average yearly net railway income of the Canadian National was $56,189,107. The sum of $37,782,773 would amount to a return of about 3.7% on the net investment of Canadian Pacific and would be even lower than what Canadian Pacific believes to be adequate.

It follows, therefore, that if Canadian National were allowed to earn only its present level of fixed charges, the result would not be too much profit for Canadian Pacific but too little profit.

To put it another way, in 1941 the Canadian National had a cash surplus of $4,000,000 over and above its fixed charges. In that year it will be seen from the Table entitled "Digest of Development" appearing in page 27 of the Appendix that the Canadian Pacific earned a return of only 4.02%. Similarly, in the succeeding years down to and including the year 1945 when the Canadian National had relatively substantial cash surpluses in each year, the return earned by the Canadian Pacific on its net rail investment never exceeded 5.18%.

[illegible]

The Brief of Manitoba contains perhaps the most com[illegible]

[illegible] of rail and non-rail revenues and expenses; to an examination of the generality of operating expenses and to Chapters V and VI which contain an analysis of depreciation and maintenance expenses respectively.

This portion of the submission of Canadian Pacific will therefore deal with the following subjects:-

(a) Separation of Rail and non-rail enterprises in the accounts;

(b) Renewals, retirals and depreciation;

(c) Maintenance expenses.

Separation of Rail and Non-Rail Enterprises

There has been a disposition on the part of Manitoba as well as the other provinces in their submissions to your Commission and in their sunmissions to the Board in the recent rate cases to place great emphasis upon this question. Saskatchewan takes the extreme position that subsidiary ventures such as hotels and the mining investments of Canadian Pacific are to be considered as railway investments for the purpose of rate making, (see p. 99 of Saskatchewan's Brief). On the other hand Alberta, Manitoba and a number of the other provinces where they have made any submission at all on this branch of the reference to your Commission, have contented themselves with indicating that a separation as between rail and non-rail enterprises should be made and that your Commission should indicate how this should be done.

As regards the position of Saskatchewan, it would hardly seem necessary to argue that it would be unsound to fix the level of freight rates by reference to profits or losses resulting from the investment of surplus funds of Canadian Pacific. The contention of Saskatchewan is well-answered by the Board in its judgment in the 21% Case which on page 19 of the report in XXXVIII J.O.R. & R. contains the following passage:

"If the income from profitable outside investments is to be used to reduce what would otherwise be just and reasonable rates, then it may well be argued that if net losses were made in any such

undertakings the users of the railway transportation services might be called upon to pay higher rates to recoup such losses. This would be a highly undesirable situation.

It seems to me that neither the profits nor the losses on other outside investments should be taken into account in fixing just and reasonable transportation rates.

Moreover, there are operating in Canada railways other than the Canadian Pacific Railway Company and Canadian National Railways which are subject to the jurisdiction of this Board. These other railways are interested in the present application. It would be most unfair to fix just and reasonable rates for other railways on the basis of whatever "Other Income" the Canadian Pacific Railway or the Canadian National Railways may obtain from sources other than railway operation."

The argument was pursued with great tenacity before the Board of Transport Commissioners and indeed has been on other occasions in prior years. The Board has consistently taken the position that such a proposal is unsound and Canadian Pacific submits that the Board could properly have reached no other conclusion. Its argument on this question was principally made in the 21% Case and will be found at pp. 18381 to 18385 and at pp. 18487 to 18506 of the transcript in that case.

The less extreme suggestions in this connection, however, require some examination. Much is said in the submissions to your Commission about the necessity for a segregation in the accounts between rail and non-rail enterprises. Canadian Pacific concedes that it is desirable to segregate the accounts with regard to these enterprises and submits further that it is entirely possible to separate them in the Canadian Pacific accounts as they now stand. Indeed, in the 20% Case such a separation was made in Exhibit (49)-49. The separation there given is not only a separation of rail and non-rail investment but also a separation of working expenses and profit and loss accounts so as to show the results of the operations of the railway enterprise since 1881. There is no reason for controversy on this subject. A separation in the accounts can readily be made and no legislation requiring it to be done is necessary.

However, certain controversies have developed as to which of several specific enterprises ought to be considered railway enterprises. In the Brief of Manitoba the statement is made that the rail category should include "all activities which are an integral part of the railway transportation activities of the company" (p. 6 Chap. IV). The submission goes on to suggest that the rail category should include all of the activities of Canadian Pacific Express Company and Canadian Pacific Telegraphs as well as water transport facilities

which are direct links between rail facilities. Manitoba concedes that such holdings as Consolidated Mining and Smelting Company and such activities as ocean steamships belong in the non-rail category but expresses doubt as to whether Canadian Pacific hotels, Soo Line railway holdings and Toronto Terminal facilities are an integral part of the rail enterprise and should be included as such.

The principal activity of Canadian Pacific Express Company is the carriage of express traffic by rail. The practice now is that Canadian Pacific Express Company pays its own expenses in the handling of express and pays over to the railway company the balance of its revenue from express traffic. This balance is payable under a contract between the Express Company and the Railway Company, in consideration of the carriage of express traffic on the trains of the Railway Company. The payments thus received by Canadian Pacific Railway Company are taken directly into its rail accounts.

This is by far the major operation of the Express Company. Its subsidiary operations include the sale of money orders and other financial paper. It also has some income from investments. The net income from the sale of commercial paper and from investments is the only real net income of the Express Company and is used for dividends on its stock and for a necessary amount of surplus to be retained in the business. The amount of net income of the Express Company which is treated as Other Income of the railway company is the amount of the dividend paid by the Express Company on its stock and is derived entirely from these other activities. The amount is relatively small. If the revenues and expenses of the Express Company were taken into the railway accounts, the property investment account would have to reflect the property investment of the Express Company.

In the case of Canadian Pacific Telegraphs, however, the position is somewhat different. Although having no separate incorporation, Canadian Pacific's telegraph department is an enterprise completely separate from the rail enterprise. So far as it supplies telegraph services for the operation of the railway, these services are charged to the railway operations at cost. However, the principal business of Canadian Pacific Telegraphs is its commercial telegraph business which is in no way related to the business of operating a railway. In these circumstances Canadian Pacific Telegraphs should plainly not be brought into railway accounts. Indeed, one should have no difficulty in applying the test referred to by Manitoba so as to exclude these operations from the railway accounts. That test is whether the activities in question are an integral part of railway transportation activities (see page 6 of Chapter IV of Manitoba's brief).

Canadian Pacific does not reflect the results of the commercial telegraph business or the investment in commercial telegraph business in the railway accounts. Canadian Pacific points out that telegraph rates are subject to the jurisdiction of the Board of Transport Commissioners and if the accounts of commercial telegraphs were included in the railway accounts, one more complicating feature would be added in the determination of the proper level of railway freight rates. If commercial telegraphs were reflected in the railway accounts an additional segregation of revenue and expenses as well as of property investment would be needed when it became necessary to consider the need for a change in freight rates or a change in telegraph rates.

As to Canadian Pacific hotels, Canadian Pacific submits that while hotels are integrated with railway operations in one sense, there is no such integration as to require that the operation of hotels be relected in the accounts for determining the level of freight rates. Hotels have a different scale of rates and their rates are not subject to regulation by the Board.

The function of segregation of accounts as between rail and non-rail is to enable a determination to be made of the proper level of freight rates and not the rates to be charged for commercial telegraphs, the sale of financial paper by the Express Company or the rates to be charged in hotels. Accordingly, the inclusion of these matters would make difficult an adjudication on the matter of freight rates and would not assist in any way in resolving any of the problems in connection therewith. For further statement of the views of Canadian Pacific in connection with this matter, see the argument of Counsel at pp. 4726-4729 of the transcript in the 20% Case.

Renewals, Retirals and Depreciation

In Chapter V, after outlining the history of the accounting practices of the Canadian Pacific, Manitoba recommends that the authority and responsibility for setting the retirement and renewal practices to be used for rate making, should rest in the hands of the Board of Transport Commissioners; that the Board should determine which assets are to be treated on the basis of retiral accounting, renewal accounting or depreciation accounting; and that the Board should in the process establish the rates of depreciation. Manitoba also advocates the straight line basis rater than the present user basis employed by the Canadian Pacific and that the Board should maintain a continuous review of these matters.

In order to approach a discussion of Manitoba's submissions it will become necessary to draw attention to specific language used in the Brief. For

[illegible]
method the cost of replacement is charged to expenses and that "[illegible]
cost remains in capital account - presumably in perpetuity".

[illegible]
are used unless to infer that the capital account would never be reduced [illegible]
renewal accounting. Canadian Pacific points out that under renewal accounting if an asset is abandoned and not replaced, the capital account would be reduced by the "first original cost" of the asset. Canadian Pacific also points out that one of the results flowing from the use of renewal accounting is to understate the property investment. The importance of this understatement is that where it has occurred, the Company's book figures of investment represent only the original cost of the original assets not the actual cost of the assets presently in service.

As Canadian Pacific has pointed out in Part I of its Submission, there has been a substantial understatement of its road property investment account because of the practice of renewal accounting. When the book investment is used for the purpose of calculating a rate of return, such understatement results in an extremely conservative figure of property investment.

Attention is drawn to the definitions on pages 2 and 3 of Chapter V of Manitoba's Brief. These definitions attempt to distinguish between renewal accounting, retiral accounting and depreciation accounting. Canadian Pacific points out that the principal distinction is not made clear by Manitoba's definitions and would like to clarify that distinction.

Renewals accounting involves an immediate charge to expenses of the cost of replacing assets as they are retired.

Retiral or retirement accounting involves merely a charge to expenses at the time of retirement equal to the original cost of the asset retired, leaving the excess between original cost and replacement cost to be capitalized.

Depreciation accounting is an instalment provision in advance of retirement and throughout the life of the assets, of the original cost of all assets in service. That is to say, depreciation accounting by instalments over the life of the assets, provides at the end of that life as nearly as may be estimated, not the cost of replacement as in renewal accounting but the original cost of the asset as in retirement accounting. The instalments of depreciation accruals are provided as a charge to working expenses immediately the asset goes into service.

It follows that of the three methods renewal accounti [illegible] rising prices, and assuming for the purposes of comparison that [illegible] correctly reflect service life, will result in far higher charges to c[illegible] (see the evidence of Mr. George O. May at pp. 15543-4 in the 21% Case). [illegible] say, renewal accounting will be more expensive over the long term although [illegible] individual years, if replacements are below normal, renewal accounting may result in lower charges to expenses. If, however, retirements are bunched due to [illegible] wearing out of a large number of assets or for any other cause, renewals are more than normal, charges to expenses for replacement particularly in a period of risin[g] prices, might well be out of hand.

It is this bunching of retirements which condemns both retirement and renewal accounting. It produces a reluctance on the part of management to make normal retirements in periods of low revenue. Similarly, in periods of high traffic volume, such as the war period, retirements cannot be made although the Company could well afford to make them. This is because of the tendency in such times to find shortages of materials.

There was a good deal of evidence in the 21% Case on this point. Canadian Pacific pointed out as among the principal reasons for adopting depreciation accounting, some of the difficulties it had faced in this connection. It pointed out that, for example, large amounts of equipment had been purchased in the period prior to the First Great War which would not normally come to the end of their useful life until the early 1940's. It further pointed out that due to the intensity of the depression and to its effect upon revenues Canadian Pacific could not make normal retirements in those years. It also pointed out that during the war years it could not make normal retirements and replacements beacuse of the need of maintaining all equipment in service and of the difficulty in obtaining replacements. Nothing but a depreciation policy could have solved such problems and this evidence, in the opinion of Canadian Pacific, made quite [illegible] the need for depreciation accounting. Thus the principal distinction between renewal and retirement accounting on the one hand, and depreciation accounting on the other has been ignored in Manitoba's Brief. That distinction is that depreciation accounting, unlike the other forms of accounting, is a system which aims to distribute the cost or other basic value of the assets over the estimated useful life of those assets in a systematic and rational manner. See the definition first placed in evidence by Mr. [illegible] in the [illegible] 15405 and now put forward by Manitoba at pa[ge] 2 of Chapter V of its [illegible]

[illegible]

and the accruals of depreciation in 1948. The Brief indicates t[illegible] understands the difficulties of comparing the charges to expenses under retire[illegible] ment and renewal accounting with charges for accruals of depreciation becau[illegible] the Brief indicates that such a comparison does not of itself prove that the 1948 figure of depreciation accruals is excessive. However, the suggestion [illegible]

Bearing in mind that retirement charges are related always to units which have gone out of service whereas depreciation relates to all assets currently being used, including new as well as old assets, Canadian Pacific submits that the comparison offered by Manitoba is of no value whatever. What is of value and what Manitoba has continuously ignored, throughout the course of the rate cases and in its present submission, is that the matter comes down to a determination of service life.

Manitoba and other provincial governments have persisted in pointing to comparisons with prior years while ignoring direct evidence which makes the comparison unnecessary. It does not seem to make any difference to point out as has been done from time to time that the comparison between retirement charges and depreciation charges cannot usefully be made. It does not seem to matter to Manitoba that there is much evidence on the record in the two rate cases dealing directly with the question of service life and with the rate of depreciation. After all service life must be the test by which the propriety of depreciation charges is determined.

Before leaving this matter Canadian Pacific desires to refer your Commission to the evidence of Mr. Grant Glassco of the firm of Clarkson Gordon & Company who was a witness in the 21% Case. He made it clear at pp. 15274-5 of the transcript in that case that there is no basis for comparison between a period of retirement or renewal accounting on the one hand and a period of depreciation accounting on the other. Mr. J.C. Thompson, senior partner for Canada of Peat, Marwick, Mitchell and Company at pp. 14294-6 in the same case gave evidence to the same effect.

Manitoba's persistence in making these comparisons is apparent on page [illegible] of Chapter V where tables are set forth showing a wide discrepancy between depreciation accruals between 1940 and 1948 on the one hand and rolling stock retired in the same years. Much is made of the fact that depreciation accruals [illegible] averaged almost five times as much as the charges to the depreciation [illegible]

reserve for retirements and at the bottom of page 5 and top of page 6 the following statement is made:-

> "It is, of course, true that in any one year, or in a number of years, the situation may be such that the company is using its capital equipment to the full and is buying new equipment and not retiring old equipment. If that situation exists, it is right and proper that the amounts set aside in the depreciation reserve should be substantially in excess of the cost of the capital items retired. If, however, depreciation provisions are greatly in excess of retirement for a period of time which is a significant part of the total lifetime of the assets in question, then that situation is not satisfactory."

This statement may well cause confusion. Nothing is said of the fact that exactly the same suggestions were made to the Board on several occasions and to the Governor in Council on the appeal in the 21% Case. The Board on Transport Commissioners is perfectly capable of assessing the validity of suggestions of this kind with regard to which there was much evidence before it. What really is involved is the question as to whether the rates of depreciation are proper and whether the user basis is a satisfactory method of accruing depreciation.

Canadian Pacific does not intend to repeat here the submissions made as to the propriety of the user basis. These with references to the transcript in the two rate cases are sufficiently set forth in Part I of this Submission. There is, however, a great deal of evidence in the record before the Board of Transport Commissioners in the two cases relating to the rates of depreciation and Canadian Pacific is confident that it is unnecessary to review this evidence here. It does, however, point out that Canadian Pacific has never refused to face the issue as to the propriety either of the user basis or of the rates applied under it.

On page 6 of Chapter V of Manitoba's Brief, in commenting on the tables appearing on the previous page, Manitoba appears to ignor the evidence as to why retirements in the years preceding 1948 were well below normal. Nowhere is it pointed out that during the period 1920-29 retirements of equipment were necessarily at a minimum because of the fact that very large purchases of equipment had been made immediately prior to 1914 and were not then ready for retirement. Nothing is said of the difficulties during the depression years 1930-40 when owing to low traffic and low earnings, assets could not be retired and replaced. While the difficulty during the wartime years is referred to, no weight is given to the fact that during those years all equipment was needed in service to maintain operations at the wartime peak or to the fact that replacements, particularly of rolling stock, were practically impossible to obtain due to the wartime shortage of materials.

That there is more than ordinary significance in these figures will be seen [illegible] the fact that retirements of equipment in 1942 and 1943 fell to the low figure

of $1.2 million and $1.7 million respectively. Some idea of the cost of renewal accounting in regard to equipment may be obtained from the fact as proved by the witness Newman in the 20% Case (see Exhibit (49)-51 Table 2) that the restoration of work capacity in equipment alone over the next five years will require the expenditure of an average of $33,200,000 per annum. Under renewal accounting the annual charges to expenses over the next five years would be of the order of $33,000,000 as compared with the total accruals in 1948 for depreciation of equipment and road property combined of $28,529,000 (see p. 4 of Chapter V of Manitoba Brief). When it is borne in mind that the latter figure is calculated at the higher rates established in 1948 one can see the point of the argument that renewal accounting is bound to result in greater current charges to expenses than depreciation accounting in a period of rising prices.

Near the bottom of page 6 of Chapter V the suggestion is made that since the average depreciation accruals in respect of rolling stock for the years 1940-48 was $14.3 million per year, this would be sufficient to retire the average total inventory of $362 million in 25.3 years.

On page 7 the service life for locomotives, freight cars and passenger cars taken from the Judgment in the 21% Case is set forth and the following statement is made. "It is obvious that if present rolling stock should continue in service for that length of time, and if the depreciation provisions of the period 1940 to 1948 should be continued year by year, the amount which would be accumulated would be far in excess of the total cost of the equipment."

This statement is apt to be misleading. It ignores completely the mass of evidence which was before the Board in both the 21% and the 20% Cases. The following factors are ignored:-

First: the user basis admittedly provides larger accruals of depreciation during years of peak traffic than does the straight line method. The suggestion, therefore, made at this page falls to the ground because the period 1940-48 was the period of the highest traffic level in the Company's history.

Secondly: many exhibits were filed in the 21% Case and in the 20% Case in which calculations were made on various assumptions as to what constitutes a normal year's mileage for equipment or ton mileage upon which the depreciation of road property is based.

The Board itself by a calculation in the 21% Case arrived at the conclusion that the user rates of depreciation then in effect were the equivalent of a straight line rate for rolling stock of 3.62%. (see p. 33 of the Judgment in XXXVIII J.O.R. & R.) Evidence was introduced by two accounting witnesses in the 20% Case drawing attention to the errors in the assumptions upon which the Board's calculation was made. Mr. K.W. Dalglish of the accounting firm of Deloitte, Plender, Haskins and Sells by Exhibit (49)-3 in the 20% Case showed how this percentage probably was arrived at. However, in Exhibit (49)-9 in the same case he established that the total accruals expressed as a percentage of total investment under the user basis for rolling stock depreciation was 3.08% based upon the average annual mileage per unit over a twelve-year period 1934-45 inclusive. This period was one during which there were depression years and peak traffic years. The rate of 3.08% on the user basis was the equivalent of a straight line rate based on an average service life of 32.4 years and not 25.3 years as indicated in Manitoba's brief. Moreover, Mr. S.J.W. Liddy, Assistant Comptroller of Canadian Pacific, filed several exhibits in the 20% Case showing the indicated life expectancy of both rolling stock and road property of the Canadian Pacific as a result of the application of the user rates of depreciation in effect prior to 1948.

Exhibit (49)-25 showed an indicated average life expectancy of locomotives of 38 years, freight cars 33 years and passenger cars 31 years based upon the mileage for the year 1940 as average or normal. Taking the fourteen-year average of 1933-46 inclusive, the user rates of depreciation on rolling stock indicated service lives of 37 years for locomotives, 33 years for freight cars and 28 years for passenger cars. This exhibit is based on the ledger value at January 1, 1948.

In Exhibit (49)-27 the average life of rolling stock [illegible] straight line depreciation rates accrued by Class I roads in the United States is shown, that is to say, locomotives 28 years, freight cars 27 years, passenger cars 32 years based on the depreciation base as at November 30, 1946.

Exhibit (49)-28 shows exactly the same results based on the depreciation base for November 30, 1947.

Exhibit (49)-26 put in by Mr. Liddy is a similar calculation of the indicated average service lives for depreciable road property and shop and power plant machinery as indicated by the user depreciation rates in effect prior to the increase in 1948. On this basis and using 1940 as an average or normal year, the average life expectancy of depreciable road property was 64 years and shop and power plant machinery 52 years. Taking the average of the fourteen years 1933-46 inclusive as normal, the indicated service life for depreciable road

property was 60 years and for shop and power plant machinery 48 years.

Exhibit (49)-29 shows the indicated average life of depreciable road property on Class I United States railroads on the depreciation base of November 30, 1946. Exhibit (49)-30 shows the indicated service life for Class I United States roads on the depreciation base as at November 30, 1947.

These two exhibits show the amounts by which Canadian Pacific depreciation charges are lower in dollars than the equivalent charges based on the average life expectancy indicated by the straight line depreciation charges on Class I United States railroads. Without exception, the accruals on the Canadian Pacific indicated a lower basis than if the indicated service lives of Class I roads had been used.

It is conceded that accruals as high as those between 1940 and 1948 may be continued at that rate for such period as traffic volume and the consequent intensity of use continue at that high level. This is because if traffic volume remains high and the utilization of equipment is as intensive as during that period, no measure of service life in terms of past low level traffic years would be useful. Your Commission will bear in mind that the service lives shown at the top of page 7 of Chapter V are service lives based on the evidence in the 21% Case. The lives of locomotives and freight cars are those given by the Canadian Pacific witness O'Brien in relation to retirements taking place in past years and do not represent equipment subjected to the heavy usage of the wartime and postwar periods. As to passenger cars, the age of 29 years referred to in the Manitoba Brief is a calculation based on the witness Liddy's assessment of service lives indicated by the depreciation rate then in effect but based upon average run out mileages over a period of low and high traffic volume years in order to determine an average.

If intensity of use and traffic volume are as great in future as they have been during the war and post-war years, no one can doubt that the service lives will be shortened as compared with those experienced in the past.

On page 7 of Chapter V Manitoba sets forth that its objective "in criticizing the present practices is to prevent the development of a situation in which the depreciation provisions return the full original cost of the equipment and provide something in addition."

Here again it ignores the position taken by Canadian Pacific that it was quite prepared to defend its rates of depreciation. It did not at any time suggest that the Board should not consider the propriety of those rates. It introduced evidence both by its technical officers and by experts. This evidence, in the

opinion of Canadian Pacific, is sufficient to enable a determination to be made of the propriety of its depreciation rates.

On page 10 of Chapter V the following statement deserves scrutiny:-

> "There is no evidence in the rate cases to indicate that renewal accounting is not now being carried on, largely as it existed prior to the inception of depreciation accounting."

This is an amazing statement. The position taken by Manitoba particularly during the 20% Case, although unsupported by evidence, was that certain renewals were being made of portions of units of property without any charge to the depreciation reserve.

Under the Classification of Accounts of the Interstate Commerce Commission, as a unit of property is being replaced, it is retired and the original cost is charged to the depreciation reserve. If, however, repairs are made to portions of units requiring the replacement, let us say, of a part, the cost of replacing the part of the unit is charged to expenses and no charge is made to the reserve. This matter was raised during the 20% Case by Mr. Kent, an accountant giving evidence for British Columbia. His cross-examination upon the point begins at p. 3297 and continues to p. 3301 of the transcript in that case.

In the submission of Canadian Pacific the question only arises in borderline cases as to what constitutes a unit for the purpose of determining whether the charge should be made to the reserve and is one of judgment for the accounting officers concerned. Manitoba's submission would seem to involve charges to the depreciation reserve when any part of a unit is being repaired. In effect this means that depreciation should not be dealt with on the unit basis contemplated by the Classification of the Interstate Commerce Commission but on a very different basis.

Canadian Pacific submits that depreciation accruals would be on a very different basis if this change were made. That is to say, if the depreciation rate is to be struck having regard to the retirement lives of units, one rate would suffice but if the rate is to be struck by reference to a new practice of charging to the reserve the original cost of each part as it is replaced, a different and higher rate would obviously be necessary.

This whole question is one undoubtedly for the Board of Transport Commissioners and no legislation is needed because obviously legislation could not be concerned with such detailed questions.

Canadian Pacific can come to no other view than that Manitoba is making an argument unsupported by evidence, to suggest that there is impropriety in what has been done. Canadian Pacific could understand Manitoba advocating a change in practice of this kind. In that event the matter could be debated on its merits

before the Board of Transport Commissioners at an appropriate time. Canadian Pacific finds it difficult to understand why Manitoba appears to offer veiled suggestions of impropriety. The language on page 7 of Chapter V suggests that depreciation "is being used as a means of collecting a sum in excess of the original basic value of the capital assets. The recommendations which are to be presented hereafter are designed to ensure that this situation will not be allowed to continue in the future...."

On page 11 of Chapter V a reference is made to renewal accounting as having "apparently proved to be reasonably satisfactory" for fifty years.

This statement is made in the face of evidence that renewal accounting had not proved to be satisfactory and that this was the reason for a change to depreciation accounting. In particular, there was evidence by Mr. S.J.W. Liddy as to the reasons for the Company adopting depreciation accounting. There was, in addition, the strongest condemnation of retirement and renewal accounting by expert witnesses such as Mr. George O. May at pp. 15497-8 and 15543-4, Mr. Grant Glassco at pp. 15278-80 and 15287-8, Mr. J.C. Thompson at pp. 14316-18 of the transcript in the 21% Case and Mr. K.W. Dalglish at pp. 345-6 of the transcript in the 20% Case.

On the same page the Manitoba Brief goes on to say that renewal accounting will produce the same annual charge as depreciation accounting if the replacement of assets takes place at a uniform rate year by year and if the price level does not change.

In practice, replacement of assets has never been uniform year by year and is not likely ever to be uniform. In the second place throughout the history of the Company the price level has shown an almost continuous upward trend and this trend was greatly accelerated during the war and postwar periods.

The reason for depreciation accounting in place of renewal or retirement accounting is chiefly because replacements are never uniform.

On the other hand, because prices are on the upgrade renewal accounting will prove more expensive than depreciation accounting which is based on original cost.

On page 12 of Chapter V of the Brief, Manitoba in discussing depreciation for depreciable road property suggests that as a result of the inadequacy of data, and the extent to which life of road assets can be prolonged or shortened by management, "there is an element of risk both to the user and to the railway if

depreciation accounting is introduced".

The Brief goes on to suggest what must be a truism, that if service life should be underestimated, the user must provide unnecessarily large reserves, whereas if it is overestimated, the railway runs the risk that it will not have adequate reserves.

This is another case of an argument based upon an acceptable statement of principle but leading to wholly erroneous conclusions. Of course, there must be risk that estimates of service life will prove to be wrong. They are, after all, only estimates. Manitoba would seem to suggest that because it is risky to estimate, a business enterprise ought to forego making any estimates. Quite obviously no business enterprise could exist unless it planned for the future and unless it took some risks that its estimates might prove inaccurate. However that may be, Canadian Pacific feels that it should be obvious to Manitoba that a business enterprise such as Canadian Pacific and its experienced technical officers must, short of fraudulent intent, be capable of making the best possible estimates of service lives whether of road property or of equipment for depreciation purposes. It is undoubtedly possible to err but the risk of error ought not to involve a rejection of an otherwise sound accounting practice, such as depreciation accounting undoubtedly is, merely because there is some risk in estimating service lives.

On page 13 of Chapter V the view is expressed that "it is much preferable that the cost of expensive new assets purchased in periods of high prices should be paid off immediately."

This statement is at variance and entirely inconsistent with the case that Manitoba has hitherto presented. Canadian Pacific agrees that if it were possible to have replacements uniform it would be preferable and more equitable to be on renewal accounting in a period of rising prices. Mr. George O. May at pp. 15543-4 of the transcript of the 21% Case, himself stated that the preferable method would be replacement reserve accounting, that is to say, instead of waiting for the replacements which might be bunched, a reserve would be created to provide for those replacements. This method, he says, would be much more expensive than depreciation accounting and would be, in the submission of Canadian Pacific, the equivalent of accruing depreciation on reproduction cost and not on inventory cost.

Reference has already been made to Exhibit (49)-51 where in Table 2 the cost of the replacement or restoration of work capacity in equipment over the next five years will average approximately $33,200,000 per annum. It is difficult, in

the light of this evidence, to see how Manitoba could express a preference for renewal accounting although the Brief does suggest that a distinction in this case might be made between rolling stock and road property.

On the other hand, your Commission will realize that the present depreciation accruals indicate a service life for depreciable road property on the Canadian Pacific at the present rates of depreciation of from 60 to 64 years. In these circumstances a very large part of the depreciable road property has not reached anything like its normal retirement age since the Company is only a little over 70 years old and most of its expansion has taken place within the past 40 or 50 years. In these circumstances it is hardly to be expected that retirements as yet have reached their normal proportions. When they do, there can be little doubt but that renewal accounting would produce much higher annual charges to expenses than does depreciation accounting.

The argument of Manitoba in this connection based upon average retirements compared with current depreciation accruals can best be illustrated by an example of a company which purchases assets which, on the average, have a life of 50 years and immediately sets up depreciation accruals year by year in a reserve. If one can assume that the shortest lived of the assets will have a life of 40 years and the longest of say 60 years to bring about an average of 50 years, there will be no retirements charged to the reserve for the first 40 years of the Company's existence and relatively few for the next 10 years. Manitoba apparently suggests that the measure of the propriety of the depreciation accruals in the first 40 years is the retirements in the first 40 years which are obviously nil. On this argument no depreciation accruals would be justified.

On page 14 of Chapter V the recommendation is made that service life studies should be made by the Board of Transport Commissioners.

Canadian Pacific has never had any objection to the Board making these studies. It has put before the Board much evidence and many exhibits to enable the Board to reach a conclusion as to the propriety of the rates. The propriety of the rates must inevitably depend upon the reasonableness of the estimate of service lives.

In this connection your Commission will, it is hoped, not be misled by the seeming ease with which the matter of service lives appears to be approached by Manitoba. The only estimates of service lives which can be made are based on the past. All of the direct evidence with relation to service lives has been of

this character, that is to say, evidence of the age of [illegible] at the date of their retirement. There has been, on the other hand, much evidence such as that of Mr. Newman (see pp. 14172-3; 14176-87 of the transcript in the 21% Case) that particularly in the case of equipment, the Company is facing an entirely new era. Obsolescence is likely to become a much greater factor in future than it has been in the past.

Mr. Newman at p. 1470 of the 20% Case also stated that the company would no longer purchase steam locomotives. He said the company would continue to purchase diesel locomotives but that these locomotives would have a shorter service life than steam locomotives.

The remarkable fact is that the exhibits filed by Mr. Liddy in the 21% Case and in the 20% Case show that the user rates of depreciation based on several alternative averages of normal run-out mileage, show service lives in excess of the lives estimated by reference to actual retirements. See Exhibit (49)-25 where service lives of 37-38 years for locomotives, 33 years for freight cars and 28-31 years for passenger cars are shown. These service lives can be compared with those shown on Page 7 of Chapter V of Manitoba's brief.

On page 14 of Chapter V, the recommendation is made that the service life of equipment should be calculated in years.

Standing by itself, there would seem to be nothing wrong with this as a basis. Most of the records of the past are admittedly available only in terms of years. However, the suggestion that it follows that depreciation accounting should be on a straight line basis and not on a user basis is illogical. The definition of depreciation accounting subscribed to by Manitoba and by all parties before the Board of Transport Commissioners makes it clear that depreciation accounting is a process of allocation not of valuation. It follows that while the estimate of service life may be made in years, the accounting allocation need not evaluate exactly year by year the proportion of the service life which is used up. Admittedly however, measuring this in terms of mileage in respect of equipment is a much more accurate way than by dividing the depreciation accrual equally between the years despite the wide fluctuation in use. It is because of the fact that depreciation procedure is an accounting allocation rather than a process of physical evaluation that much of the confusion has arisen in understanding the propriety of the user basis. Let us assume that the life of a locomotive can clearly be estimated at 35 years. In some of the years of this period it will run

high mileage and in other years it will run low mileage. The straight line basis would accrue depreciation at exactly the same amount each year whereas the user method allocates the depreciation over the 35-year period in different amounts each year according to the mileage run out. If the rate is correctly assessed and the service life correctly estimated, the ultimate result is the same but the year to year accruals will fluctuate. It therefore becomes a question of estimating service life and this is just as difficult a question whether the straight line method is used or the user method is used.

On page 15 of Chapter V the statement is made that there are no accurate records of useful life in terms of mileages and that "the C.P.R. has not produced any mileage records in any of the recent rate cases and it is doubtful whether they exist except for locomotives."

Later on the same page the conclusion is reached that since this is so "it therefore follows that if the Board of Transport Commissioners is to have adequate data to test the system which is installed and is to be able to supervise the methods and application of depreciation in the future, that depreciation system must be one which is based upon service life in years."

There is an implication here that the Canadian Pacific may have had the records and did not produce them. Let it be clearly understood that if the Canadian Pacific had had the records they would have produced them. The fact is that there were no mileage records except for locomotives.

On the other hand, the point is academic. It it is found that the average life of boxcars at retirement was, say, 28 years and if it is found that the run out mileage of boxcars over that period was a given number of miles, one can quite easily arrive at an estimate of what the service life will be either in terms of years or miles. The exhibits filed by the Canadian Pacific tested the depreciation rates by reference to average mileage for the year 1940 and to average annual mileage for a 14 year period including both depression and high traffic volume years. It is extremely significant that on these tests there is a close correlation between the indicated service life based on these average mileages and the observed service life in the case of equipment at retirement. The close correlation between these two approaches creates the irresistible presumption that the rates of Canadian Pacific for depreciation of rolling stock are on the low side rather than being in any way excessive. Unfortunately, however, Manitoba appears to have ignored all of this evidence in its submission.

Maintenance Expenses

Manitoba concludes Chapter IV with a general discussion of the level of maintenance expenses of Canadian Pacific. On page 8 the statement is made that one of the most revealing tests of any figure is to compare it with the corresponding figure in previous years. Manitoba, however, does not say that one of the most revealing tests of the proper level of maintenance expenses is the evidence of railway officers expert in this field who have throughout the past two rate cases and particularly in the 20% Case, given clear cut evidence as to the propriety of the maintenance expenses of Canadian Pacific over a period of years.

Manitoba has throughout the rate cases and in the present submission directed its attention principally to a comparison dollarwise with expenses between the year 1939 and the years 1947 and 1948.

Manitoba also complains that the matter of income tax has made it difficult to make comparisons between various years. Just why Manitoba should have seen fit to set up as a difficulty a matter which Manitoba itself later finds to be no difficulty is difficult to understand. On page 9 of Chapter IV it is apparent on the face of the language immediately preceding the table of figures, that income tax has been eliminated for the purposes of the comparison. Indeed, Manitoba has gone further and has eliminated joint facility rents and rents for hire of equipment. If income tax had provided any difficulty it is not easy to understand how Manitoba could quite so readily eliminate it from the comparison. With regard to joint facility rents and hire of equipment rents Canadian Pacific cannot understand what possible justification there is for eliminating these expenses. They are just as much a part of expenses as any other operating outlay except when there happens to be an excess of income over rents paid out on these accounts. As it happens, in most of the years both of these items show a debit and therefore a charge to expenses.

On page 1 of Chapter VI of Manitoba's Brief it is suggested that although a great deal of evidence was offered as to the level of maintenance chargeable for rate making purposes in the 21% Case and in the 20% Case, it is the view of Manitoba that no satisfactory conclusion has yet been reached.

It would have been fairer if Manitoba had said that the Board in the 21% Case found that there was no evidence of over-expenditures for maintenance in 1947. Although the most recent judgment of the Board on the review under P.C. 4678 had not been delivered at the date of Manitoba's Brief, it upholds the findings

of the Board in the 21% Case on this point. However there is kept open for the future, questions relating to maintenance expenses in regard to the 20% Case.

On page 2 of this Chapter there begins an analysis of maintenance expenses which goes on for many pages. The basic approach of Manitoba on this question is exactly the approach which it argued and presented to the Board in the two rate cases and to the Cabinet. No attempt has been made to deal with the evidence of Canadian Pacific.

The basic approach of Manitoba is that the 1939 maintenance expenditures, increased to allow for an increase in traffic on the Yager formula, and for the increase in prices since 1939, indicated that the expenditures in 1947 and 1948 were excessive.

In the 21% Case this argument was presented by the witness MacDonald for Manitoba. In effect the answer of Canadian Pacific was (a) that 1939 selected as a base from which to project the calculation, was the year in which the lowest amount was expended on maintenance for many years and 1939 was therefore abnormally low; (b) that no such projection would be valid unless it were established that the base was average or normal; (c) that the use of the Yager formula was erroneous and that on its face (see Exhibit 169 in the 21% Case) it contained a warning against its use in the circumstances in which it was used by the witness for Manitoba.

In the 20% Case the witness MacDonald was not again in the witness box but Manitoba presented some evidence through the witness Moffat which was designed to indicate a similar result. In this case, however, Mr. Moffat contented himself with pointing to what he called the unexplained difference due to the increase in traffic volume. He admitted (see pp. 3399-3400) that if as much as 85% of operating expenses varied with traffic the difference would be fully explained. He admitted also that if [illegible] (see pp. [illegible]

Evidence was offered by Canadian Pacific through two witnesses. The witness Emerson produced Exhibits (49)-41 to (49)-46 inclusive consisting of tables and graphs covering tie renewals, new rail, other track material, ballast, roadway maintenance and track laying and surfacing.

In Exhibit (49)-41 it is shown that throughout the period 1938-47 inclusive the tie renewals were lower on the average per mile of track than they had been since 1923.

In Exhibit (49)-42 the year 1939 was the year in which the number of gross

tons of new rail per million gross ton miles was only about one-third of the 1923-38 average and was lower than it was in any year subsequently. The exhibit also showed that in no year subsequent to 1939 were the gross tons of new rail per million gross ton miles at any time as high as the 1923-38 average.

Exhibit (49)-43 showed for other track material the same result as for rail, since these two elements run hand in hand.

Exhibit (49)-44 showed that in respect of ballast the expenditures per mile of road in 1939 were approximately one-quarter of the 1923-38 average and that in no year after 1939 was this abnormally low level found to exist.

Exhibit (49)-45 showed that the expenditures per mile for roadway maintenance in 1939 and the equivalent hours of labour per mile were very substantially below the 1926-38 average.

Exhibit (49)-46 showed that in the case of track laying and surfacing the expenditures per mile in 1939 were very substantially below the 1926-38 average.

Mr. Emerson at p. 923 of the transcript in the 20% Case gave it as his opinion that the conclusions to be drawn from these exhibits were applicable to all maintenance items for road property.

Mr. Newman who gave evidence in the 20% Case dealt with the question of maintenance of equipment and filed Exhibits (49)-52, (49)-53 and (49)-54. His evidence and the exhibits make it clear that there has been substantial under-maintenance rather than over-maintenance of equipment in recent years and that the 1939 repairs were less strikingly abnormal in the case of equipment than in the case of road property.

Since the principal attack on maintenance expenses referred to maintenance of way, the evidence of Mr. Emerson is a conclusive answer on the question of the abnormality of 1939.

One further point was made in the 21% Case to which no reference is made in the Manitoba brief. Exhibits were presented by Manitoba and Saskatchewan (see Exhibit 336-L) designed to show that Canadian Pacific from about the year 1920 to the period immediately prior to the war, had spent a relatively constant percentage of its revenue in maintenance of way and maintenance of equipment. There were two aspects of this to which attention should be drawn: (1) that 1939 appears on the face of this exhibit to have involved an abnormally low percentage of revenue expended on maintenance. This, therefore, was an indication in itself of the abnormality of 1939. (2) Assuming that the case is proved that there is a

relationship between revenues and expenditures on maintenance, this theory is basically one that maintenance varies directly with revenue. Now then, if that is so, it is basic to the theory of that exhibit that maintenance expenditures vary 100% or as nearly as may be, 100% with revenue.

This theory is entirely inconsistent with the theory advanced by Manitoba based upon the projection of 1939 level of maintenance into 1947 by adjustment for increase in traffic volume on the Yager formula. In the case of maintenance of way, the Yager formula indicates that 33-1/3% of maintenance expenses vary with traffic.

It follows that if the theory propounded by the analysis contained in Exhibit 336-L is sound, maintenance expenses would vary nearly 100% with traffic.

It also follows that this theory is completely inconsistent with the Yager formula in which 33-1/3% of maintenance of way expenses vary with traffic.

The Yager formula on the other hand has been completely repudiated and the evidence in the 20% Case showed (pp. 3397-8) that on the latest I.C.C. study, total operating expenses varied from 80% to 90% with traffic. This study also showed that maintenance of plant varied more than 50% with traffic.

A further difficulty in which Manitoba must find itself is that the comparison between 1939 on the one hand and 1947 and 1948 on the other, is a comparison between periods in which there were unlike provisions for retirement of assets. That is to say, 1939 was on a renewal accounting basis for road property whereas in 1947 and 1948 depreciable road property was on a depreciation accounting basis.

It follows that comparisons based on 1939 are met (a) by the clearest direct evidence that the physical volume of maintenance performed in 1939 on maintenance of way was abnormally low; (b) that the Yager formula on its face could not be used since the traffic volume increase exceeded the amount stipulated in the formula and since the comparison was made between years too widely spaced to satisfy the conditions of the formula; (c) Mr. Moffat's Exhibits (49)-138 and (49)-140 apply the same principle as was applied by Mr. MacDonald in the 21% Case but instead of limiting the projection to maintenance of way and structures, maintenance of equipment and transportation respectively, he projected 1939 working expenses. The fallacy in this is exactly the fallacy in the earlier evidence of Mr. MacDonald.

As to maintenance of equipment the evidence of Mr. Newman (see pp. 1486-1488 in the 20% case) stated that the run-out mileage not restored by repairs during the period 1939-47 amounted to 22 million miles. This is another way of saying that not only was maintenance not excessive during the period up to and including 1947, but it was definitely below normal to the extent that the repairs were unable to restore the wear and tear on the equipment. He said also at the same pages that the restoration of this backlog was only beginning in 1948 and in that year the deferred maintenance fund was drawn upon. In the result, therefore, current maintenance expenses in 1948 were not charged with any of the cost of this restoration.

On page 7 of Chapter VI the view is expressed by Manitoba that the Board "should not reject a yardstick simply because 'both railways have indicated to the Board that no index of cost of materials and wages is available for each of the years between 1939 and 1947'".

This purported summary of the Board's reasons for rejecting the evidence of Manitoba is inaccurate. It infers by the use of the words "simply because" that the Chief Commissioner and the Assistant Chief Commissioner rejected these contentions solely on this ground. That is not a proper inference to be drawn from either of these judgments and in particular that of the Assistant Chief Commissioner who reviewed the evidence and reached the following conclusion at page 72 of the Judgment (XXXVIII J.O.R.& R.)

> "The above viewpoints, and allowing for the natural desire of an official (Mr. Crump) in charge of operations to obtain the maximum allotment to maintenance, would at least suggest, in my opinion, that maintenance on the Canadian Pacific Railway was not overdone in 1946 or in 1947; if anything, it appears that it might properly have been greater, particularly in 1947."

This attitude of Manitoba is all the more difficult to understand when your Commission is asked to believe that the Board rejected their contentions "simply because" certain data was not available.

At the bottom of page 7 and top of page 8 of Chapter VI the following statement is made:-

> "It is our view that these studies should be approached from the viewpoint of an attempt to [illegible] what maintenance expenditures are 'desirable and necessary in the interests of Canada as a whole', and should not be confined to an historical analysis of what the railways have done in the past in following out the practise of providing large sums for maintenance in years of good revenue, and reducing maintenance materially in years when revenue is smaller."

Note the language used by Manitoba. There is a suggestion that the test of the need for maintenance expenses is what is desirable and necessary in the interests of Canada as a whole. No reference is made to what is desirable and necessary in the opinion of railway management for the safe and efficient operation of its services. One would have thought that this would at least have some part in Manitoba's submissions since it is the responsibility of railway management under the Railway Act and the regulations of the Board as well as in railways' own interest to provide a level of maintenance which will ensure a safe and adequate railway operation at the lowest cost.

Note also that there is an inference in the language of Manitoba that hitherto the analysis conducted by the Board has been "confined to an historical analysis of what the railways have done in the past". But consider in this connection Manitoba's assertion on page 8 of Chapter IV that one of the most revealing tests is "to compare it with the corresponding figure in previous years". The two suggestions seem inconsistent.

Nevertheless Canadian Pacific agrees with Manitoba that the analysis of the requirements for maintenance should not be confined to an historical analysis of what has been done in the past. Indeed, although railway witnesses did make such comparisons there was direct evidence not related to the past, that is to say, the witness Crump in the 21% Case, the witness Emerson and the witness Newman in the 20% Case who all expressed opinions that the level of maintenance now being done is not in their opinion excessive. This evidence is apparently ignored by Manitoba.

On page 9 of Chapter VI and on the previous pages the suggestion has been made that a study should be undertaken among other things including engineering appraisals, "records of number of ties laid, records of number of pounds of new and re-lay rail placed, etc."

What Manitoba does not refer to is the very evidence involving the records of the number of ties laid, the number of pounds of new and re-lay rail placed, as well as a large number of other data contained in Mr. Emerson's exhibits and those of Mr. Newman, i.e. Exhibits (49)-41 to (49)-47 inclusive together with Exhibits (49)-52, (49)-53 and (49)-54.

THE FINANCIAL POSITION OF THE COMPANY

On the first page of Chapter VII much is made of the inaccuracy of the railway company's estimate of revenues for 1947 and of the accuracy of the provincial estimate.

It is sufficient to point out first, that the provincial estimate was made some six months later than the railway estimate, that is to say, late in the Spring or early Summer of 1947 whereas the Canadian Pacific estimate was originally made in the Fall of 1946 and was checked in January of 1947. Secondly, the 21% increase, which is basically the reason for the complaint of Manitoba, was not decided upon estimates of revenue. It was, in fact, decided on actual results for 1947 and this is quite apparent from the judgment. (see pp. 65 and 66 Judgment of Chief Commissioner in XXXVIII J.O.R. & R.)

On page 3 of Chapter VII under the heading of the "application of accumulated surplus" the brief reiterates the belief of Manitoba that renewal accounting should be established for road property among other things because it would reduce the capital monies required.

This is a very strange argument. In effect it suggests that on the one hand, maintenance expenses are too high because depreciation charges are too high, and on the other hand, that renewal accounting which in practice would be more expensive than depreciation accounting, should be substituted for road property.

At the bottom of page 3 and continuing on page 4 of Chapter VII the argument proceeds that the raising of capital should be by the sale of securities in the capital market because this will help to draw the line between the money contributed by the owners of the corporation, i.e., equity securities, and money contributed by the users of the service. It is argued that this method has the further advantage that it does not call upon the users of the service until after the equipment is in use, as if that were peculiar to renewal accounting.

Note that this deals with equipment and is, in effect, an argument that capital money for equipment should be obtained by borrowing so that the users of railway services do not have to provide the money for financing the new equipment.

Compare this with the suggestion that renewal accounting be undertaken for road property. Under renewal accounting the charge for replacement of the asset takes place at the time of its purchase and is a direct charge to operating expenses and therefore to the users of the railway service. If it is an advantage not to have the users put up any money until after the equipment is in use it must equally be to their advantage not to have put up any money for road property renewals until after the road property asset is in use.

On page 4 of Chapter VII an argument is made against the sale of securities by railway companies because the investing public no longer considers the field of railway bonds and stocks as "attractive an investment opportunity as it once did". Reference is made to the frequent bankruptcies of railway companies in the United States and to the greater inducement that is necessary to attract funds to the railway field.

While giving lip service to the principle that railways must have adequate revenues Manitoba argues that railways should not sell their securities because the public takes a rather dim view of the investment value of those securities. Nowhere is there an attempt to meet the real cause of the public's pessimism in regard to railway securities. This cause is brought about (a) by the unwillingness of those who are parties to the rate cases to recognize as necessary, reasonable increases in freight rates and (b) by the delays which have faced the Canadian railways in obtaining relief. These delays are next to disastrous.

Canadian Pacific reminds the Commission that the application which resulted in the 21% increase was filed in October of 1946 and after hearings which lasted 150 days throughout the year 1947, the increase did not become effective until April 8, 1948, a delay of about a year and a half.

Canadian Pacific also reminds the Commission that when the wage increase went into effect in July of 1948 retroactive to March 1, 1948, the railways filed an application with the Board of Transport Commissioners immediately. Hearing was not commenced until January 1949, was not completed until April 6th, 1949 and judgment was not delivered until September 20th, 1949. This again is a delay of approximately a year and two months.

During the interval between the filing of the application and the hearing in January 1949, there was an appeal to the Cabinet against the 21% judgment as a result of which the 21% judgment was sent back for review. The Provinces then had their third opportunity of meeting the railways' case. Not content with this they are attempting to bring before your Commission exactly the same suggestions and arguments as they had previously made on the other three occasions. How can any enterprise carry on in the face of this kind of opposition?

Canadian Pacific submits that one function which the Board has full authority to perform and which it should continue to perform is the review of just such questions as Manitoba has raised in its brief and that no interest can be served by asking your Commission to review for the fourth time the suggestions and arguments of Manitoba which have already been rejected by the Board and which are still under review by that body.

At page 5 of Chapter VII a possible method of financing is suggested by Manitoba, namely, that of using accumulated surplus for that purpose. They support their position by referring to the Board's judgment in the 21% Case. Manitoba then goes on to suggest two basic objections to the use of surplus. One of these is that surplus account is subject to income tax. The second, stated on page 6 is that not only must the customers contribute income tax on the surplus, but the money is taken into the general treasury and is treated as money belonging to the owners of the Company. Here again is the theory which pervades the Manitoba brief that money paid to the Company does not belong to the Company. This must obviously be consistent only with the theory that a railway company must be treated as a socialized entity although in name it may be called a privately owned enterprise. Manitoba might as well argue that in any case where a merchant is selling a necessary article of food or clothing without which the public cannot exist, the money paid to the merchant for the shoes, for the children's clothes, etc. is to be treated as a trust fund not owned by the storekeeper but by the customer.

At page 7 of Chapter VII, in discussing the methods of financing, two suggestions are made. First, that for financing improvements, the users of the service should pay higher rates than would be required to support the existing standard of service. This revenue should be set aside in an improvement fund for capital purposes.

On page 8 the statement is made that Manitoba has made no attempt to analysis all the implications of this suggestion.

One would have no difficulty in understanding that Manitoba has not examined all the implications of this suggestion because the very essence of the suggestion is that the railway company should be allowed to earn a surplus and the surplus as such has previously been condemned by Manitoba in its brief. However, Canadian Pacific fully agrees that it is a most desirable and indeed necessary principle that the rates should provide something more than is needed for operating expenses, taxes and fixed charges and the Board has consistently so held throughout its history.

The second suggestion on page 8 of Chapter VII is that there should be direct capital assistance by the Dominion Government. With no authority left in management to determine improvements, methods of financing, depreciation policies, the rate of depreciation, standards of maintenance, standards of service, questions of efficient use of labour and materials, the intervention of Dominion assistance would remove any necessity for Canadian Pacific remaining as a privately-owned enterprise. Moreover, the segregation of the so-called contributions of money owned by the users of the service and presumably the different treatment to be afforded to that money as compared with the money contributed by the owners of the corporation, would create in essence a publicily-owned railway service managed and controlled by the public or by public authorities. Canadian Pacific submits that clearly this is a socialistic viewpoint and believes it its duty to say so.

HORIZONTAL OR FLAT PERCENTAGE INCREASES IN FREIGHT RATES

This is a subject upon which a very great deal has been said during the regional hearings of your Commission and during the many hearings before the Board of Transport Commissioners in recent rate cases. It is alleged that such increases disturb existing rate relationships and that they have a more serious impact upon those producers who must compete with other producers closer to the common markets. It is argued that if general increases are necessary, they ought to be made by applying flat increases in cents per hundred pounds or percentage increases with maxima fixed in cents per hundred pounds and that these maxima are particularly necessary in the case of certain basic commodities.

The principal argument in support of the case against flat percentage increases has been based on simple arithmetical calculations to demonstrate that a given percentage of a higher of two rates yields a greater number of cents per hundred pounds by way of increase than the same percentage applied to the lower rate. It is said that this disturbs existing relationships because such relationships are already established by the differential in existing rates in cents per hundred pounds.

The argument proceeds to point out the large number of exceptions to flat percentage increases which have been ordered by the Interstate Commerce Commission in its judgments in recent years in general increase cases. Reference has frequently also been made to the opinion of the Duncan Commission on the subject.

It is true that there have been a number of exceptions in the application of percentage increases in the United States. It is also true that the flat percentage increase results in increases greater in cents per hundred pounds in the case of the more distant shipper than in the case of the shipper closer to the market.

Before dealing with the principle involved, it may be pointed out that the practice of the Interstate Commerce Commission in this respect is not necessarily an authority to be applied with any confidence in this country because of the very different conditions in the United States. The principal distinction between conditions here and those in the United States lies in the fact that the United States railroads themselves are largely responsible for the practice of establishing exceptions to percentage increases based upon a maximum number of cents per hundred pounds. This, it is submitted, may largely be attributable to the fact that in the United States there are a very large number of small railway systems whose interest lies in maintaining industries already located on their lines or in inducing new industries to locate there in preference to locating on the lines of other railways closer to the principal market. In Canada, however, there are relatively few railroads and therefore the competition, so far as it relates to their geographical location, is not of the same importance to the railway systems as in the United States. Whatever may be the reason for the practice of the United States railroads, the fact remains that most of the applications in the general increase cases contain these exceptions. One can quite readily

realize that the Interstate Commerce Commission in these circumstances might feel that the practice should not lightly be disturbed.

One can readily see that flat percentage increases applied to rates in circumstances in which a general increase in wholesale prices did not also take place might produce disturbances in relationships. However, in view of the general increase in wholesale prices, the allegations made to your Commission and to the Board of Transport Commissioners are in present circumstances unsound because they do not take such price increases into account.

In following the argument it should be remembered that the rise in the general price level has been the moving factor in compelling rate increases, certainly since 1946 and practically since 1914.

The argument proceeds, therefore, from a "normal" situation in which rates are in balance with other prices and with the needs of the railways. This situation is disturbed by changes originating in prices and not in railway charges. In order to see this force clearly, it is assumed that the efficiency of the railway industry keeps in step with that of the community as a whole.

Consider the case in which prices double as in fact wholesale prices in Canada have more than done since 1939.

	Produced near the market	Produced far from the market	Ratio
A - Under normal conditions			
Market price	100	100	
Transport cost	4	8	
Mill - net price	96	92	104.35
Transport cost as % of market price	4.00%	8.00%	

	Produced near the market	Produced far from the market	Ratio
B - Market prices doubled, rates unchanged			
Market price	200	200	
Transport cost	4	8	
Mill - net price	196	192	102.08
Transport cost as % of market price	2.00%	4.00%	
C - Market prices doubled, rates increased by a flat amount of 3¢ per 100 lbs.			
Market price	200	200	
Transport cost	7	11	
Mill - net price	193	189	102.12
Transport cost as % of market price	3.50%	5.50%	
D - Market prices doubled, rates increased by 50 per cent			
Market price	200	200	
Transport cost	6	12	
Mill - net price	194	188	103.19
Transport cost as % of market price	3.00%	6.00%	
E - Market prices and rates both doubled			
Market price	200	200	
Transport cost	8	16	
Mill - net price	192	184	104.35
Transport cost as % of market price	4.00%	8.00%	

Examination of the ratio of mill net prices for the two producers will show why any solution other than a percentage increase in rates when prices are rising would be disturbing to the economy. It is only by percentage increases that the competitive relationships between various producers can be maintained. Any alternatives result in a situation more favourable to the distant producer. Each one, in varying degrees, improves

the capacity of such producers either to increase profits or to bid for the use of labour and capital in order to expand production.

To the extent that a flat or maximum increase in cents per hundred pounds in rates favours the distant producer the position of the nearer producer is worsened, unless he is able to call on other forms of transportation. To the degree that this is possible the Railways must meet the competition or lose the traffic, but in either case revenues will be short of the figure which the increase in rates was designed to provide.

Considering a case in which prices fall instead of rise, the same reasoning can be applied and the same result secured. A percentage decrease in rates alone preserves the competitive relationships between various producers in terms of the ratio of mill net-prices.

Any attempt to hold down rates, regardless of this method, will encourage a redistribution of population and industry. This redistribution must eventually be abandoned when the distress of the railways, and the losses which their poverty force upon the community as a whole, compel such an increase as will bring rates back into balance with other prices.

The greater the disharmony between rates and other prices the greater is the likelihood that distant production will be encouraged. Indeed, some producers, too distant to enter a given market under normal conditions, may be able to do so with relative ease if the rate situation is sufficiently unbalanced. The area of supply will widen. Transportation will be used freely and even recklessly because its relative price has been sharply reduced. This will not mean any net increase in the national product, but rather the reverse. More transportation will be

used per unit of net output and the resources used to provide that transportation will therefore be withdrawn from other occupations and the national product will be lessened by what they would otherwise have produced.

It is probable that one of the major reasons why an attempt is made to argue against percentage increases at the present time is that a certain distortion of the economy has already occurred. Due to the time lag in obtaining increases in freight rates some production may have taken place which otherwise would not have been undertaken at the places where it is presently carried on.

This argument has been stated in terms of a uniform rate of change in efficiency. If the railways are in fact able to increase in efficiency faster than the rest of the community then they will need an increase in rates proportionately less than the increase in general prices.

The Board of Transport Commissioners in its Judgment in the 21% Case XXXVIII J.O.R. & R. at pp. 57 and 58 makes clear that in the opinion of the Board, which Canadian Pacific believes to be sound, rate differences resulting from rate increases and reductions in the past cannot properly be described as establishing so-called competitive rate relationships. It follows that if they cannot be so described, disturbances in cents per hundred pounds in these differences cannot amount to disturbances of existing rate relationships. The various phases of the matter which were argued before the Board in the 21% Case were dealt with in the Board's Judgment beginning at p. 46 and the conclusions of the Board are contained on p. 65 of the same Judgment. In the recent Judgment in the 20% Case, the Judgment of the Board with respect to the horizontal percentage increase question was upheld.

Canadian Pacific relies upon the argument by counsel as presented to the Board in the 21% Case and in the 20% Case. See particularly the argument of Mr. Evans at pp. 16121-16138 inclusive and pp. 18410-18416 in the 21% Case and pp. 4721 to 4726 in the 20% Case.

Some of the absurdities of the position advanced by those opposed to the percentage increase may be found in the evidence of Mr. Braidwood, President of the Vancouver Board of Trade, whose evidence begins at p. 7926 of the transcript in the 21% Case. Attention is particularly drawn to his cross-examination by Mr. Carson on behalf of Canadian Pacific, beginning at p. 7956.

Your Commission will recall that in the 21% Case the only exception to the flat percentage increase contained in the application and in the subsequent judgment of the Board was in the case of coal and coke with regard to which flat increases in cents per hundred pounds were authorized. It is interesting to note that in the 21% Case and at the regional hearings held by your Commission, the Saskatchewan coal operators made objection to the principle of increasing coal rates by amounts expressed in cents per hundred pounds on the ground that this method of increase favoured the Alberta coal producers in competing for their Winnipeg market. (See pp. 7634-36 of the transcript in the 21% Case and pp. 832-835 and pp. 855-857 of the transcript in your Commission's regional hearings).

It is interesting also to note that in the brief presented by the Province of New Brunswick at p. 3963 of the transcript, one of the complaints of the coal industry relates to the substitution of an increase in cents per hundred pounds rather than a percentage increase. (See also the evidence of Mr. Tooke in cross-examination where this objection is reiterated - transcript p. 4298.)

Thus these complaints by the coal industry against an increase in cents per hundred pounds may be taken to be typical of those which would be made by many other industries in the event that it should be determined that maximum increases based in cents per hundred pounds should be applied on other commodities.

Canadian Pacific also draws attention to the fact that it is entirely sound and in accordance with accepted practice that the Board should have held as it did in the 21% Case, that any exceptional cases could be adjusted by it on complaint on a subsequent hearing. Indeed, the Interstate Commerce Act Section 15 (7) is interpreted by the Commission as requiring that questions of that nature involving intricate and involved matters must give way so that preference may be given to the broader questions involved in applications for general increases. (See Ex Parte 168 p. 23 of mimeographed report).

That it would be difficult to apply such an alternative in a general increase case is agreed to by Mr. Love who appeared as a witness on behalf of the Government of New Brunswick:-

<u>Transcript Page 4033</u>

"MR. LOVE: I can imagine it would be very difficult to amend every tariff in such a way to avoid a horizontal increase considering every industry.

THE CHAIRMAN: World conditions might change very rapidly very often.

ANSWER: Yes."

To sum up, while under constant wholesale prices, some argument may be made that it is preferable to change rates by uniform amounts rather than by uniform percentages, when changing wholesale prices constitute the major reason for changing rates, uniform percentage changes are the only rational answer. It was an error not to allow rates

to increase while prices were increasing, as they have done since 1939. The opposition to percentage increases at the present time demonstrates how great that error was.

On page 9 of Chapter VIII, Manitoba attacks the principle of horizontal percentage increases and it might be inferred from the references to differing percentage increases in the earlier rate cases as between east and west, that if there had been equalization between east and west one of the principal objections to horizontal increases would have been overcome.

Canadian Pacific points out that elsewhere in this Submission will be found an outline of proposals for equalization which will in due course be made to the Board and this should, when accomplished, serve to put at rest this objection of Manitoba.

However, on page 12 of Chapter VIII, after referring to the practice in the United States, the following statement is made:-

> "It is our submission that the lack of reliable traffic statistics is much too flimsy an excuse for failure to take action upon a matter of such importance as this."

This reference is to a passage in the Judgment of the Board in the 21% Case, which appears on page 12 of Chapter VIII of Manitoba's brief.

Canadian Pacific points out that for reasons best known to Manitoba, there has been no attempt to give the Board's reasons in full for rejecting the argument of the Provinces against horizontal increases. For example, at the top of page 65 of the Judgment of the Chief Commissioner in XXXVIII J.O.R. & R., the following passage appears:-

> "Strong exception was taken by the respondents to the granting of a straight percentage increase in freight rates. But, as I view the matter, this is the only workable and practical method of dealing with the question in order to provide the additional revenue required by the railways."

The attention of your Commission is also drawn to pages 57 and 58 of the same Judgment, where the Board rejected the contention of the respondents that rate differences constituted competitive rate relationships which would be disturbed by a horizontal rate increase.

EQUALIZATION OF RATES

Much has been said in the regional hearings before your Commission and in the several provincial briefs about the alleged disparity in rates between Eastern and Western Canada.

Canadian Pacific submits that the extent of this disparity has been greatly overstated. Nevertheless Canadian Pacific concedes that there are differences in the rates as between Eastern and Western Canada. Some of these differences are due to the Western rates being higher than the Eastern rates; others are due to the Eastern rates being higher than Western rates.

The question of disparity as between Eastern and Western rates has been a subject of discussion and dispute for many years and more recently in the 21% Case before the Board of Transport Commissioners.

In Chapter X of the Manitoba Brief under the heading "Regional Considerations", and particularly at page 2 of that Chapter, reference is made to Exhibit 326 filed by Mr. Moffat in the 21% Case, which purported to show that the rates in Western Canada, by reference to the actual movement of traffic, were some 14% higher than the rates in Eastern Canada.

On page 4 of that Chapter reference is made to a recalculation based on the year 1948, the result of which according to the Brief is to establish that the difference of 14% had by that year been reduced to 6¼%.

Some of the frailties in Mr. Moffat's Exhibit 326 have been referred to during the regional hearings before your Commission. Your attention is invited to the argument of

counsel for Canadian Pacific in the 21% Case directed to this Exhibit, which will be found in the Transcript of that case at pages 16,130 to 16,138 and in reply at pages 18,515 to 18,517.

As was pointed out in argument, his Exhibit represented an attempt to assess the real difference in the rate levels between East and West. It fell into error inasmuch as it was unable to give effect to interline traffic. The point of this is that Mr. Moffat's Exhibit measures the burden of the rates both East and West by reference to the average revenue per ton received by Canadian Pacific. In the East there is a very much larger proportion of traffic which is interline, that is to say, it represents the movement of traffic over the lines of more than one carrier. In these circumstances, the revenue per ton received by Canadian Pacific is only a proportion of the through rate and the revenue per ton is therefore not a measure of the rate for the through movement. Much of the traffic within Eastern Canada is interchanged with United States lines on through rates, whereas in the West a very much smaller proportion of the total is so interchanged. Mr. Moffat admitted (see page 11,927 of the 21% Transcript), that this would affect the result of his study.

A further error made by Mr. Moffat was that he had failed to take into account the preponderance of import and export traffic in the East and he admitted at page 11,931 of the transcript that this would serve to depress the average revenue per ton in Eastern Canada.

It is also obvious that if the rate level in the East were more greatly affected by competition, this would also affect Mr. Moffat's result and it would not measure the real disparity in the normal rates as between East and West.

It would be impossible to measure the effect of these [illegible]s exactly, as no one has developed the information which ould be necessary to measure them. As was contended by anadian Pacific at the time, the only true measure of the isparity, if any exists, is to be found as a result of the aybill study which the Board is making in the general freight rates investigation.

That there was substance in the errors attributed to Mr. Moffat is now apparent. The Manitoba brief admits that the disparity shown by Exhibit 326 has been narrowed by virtue of increases in international and competitive rates which more greatly affect the East than they do the West. These are the only factors that have been changed since Mr. Moffat made his original study.

While because of the waybill study and equalization proposals the matter is probably academic, Canadian Pacific has itself made a calculation on the basis of the method used in Exhibit 326 and gives hereunder a table showing the results of that calculation.

	At Equivalent Eastern Average Revenue per Ton	At Equivalent Western Average Revenue per Ton	Revenue at Western Level Above or (Below) Revenue at Eastern Level by
estern Traffic	(Constructive)	(Actual)#	
ear 1946 (per Ex.326)	$101,468,563	$116,732,293	[illegible]
ear 1948	143,843,788	[illegible]	[illegible]
ear ended Mar.31,1949	152,315,709	[illegible]	[illegible]
ear ended June 30,1949	159,255,982	158,304,058	[illegible]
astern Traffic	(Actual)#	(Constructive)	
ear 1946 (per Ex.326)	$110,297,495	$124,664,984	[illegible]
ear 1948	149,007,04[illegible]	[illegible]	[illegible]
ear ended Mar.31,1949	152,681,608	[illegible]	[illegible]
ear ended June 30,1949	152,874,251	153,835,406	[illegible]
ll Traffic	(Constructive)	(Constructive)	
ear 1946 (per Ex.326)	$211,766,058	$241,397,277	[illegible]
ear 1948	292,850,833	[illegible]	[illegible]
ear ended Mar.31,1949	304,997,317	[illegible]	[illegible]
ear [illegible]	[illegible]	[illegible]	[illegible]

#Exclusive of "Absorptions and Corrections"

[illegible] disparity in 1946 now is substantial equality under present conditions, that is to say, for the year ending June 30, 1949.

Canadian Pacific points out, however, that the results obtained for the year 1948 do not correspond with those most recently obtained by Mr. Moffat when he found the disparity remains at 6¼%. However, Mr. Moffat's recalculation has omitted the [illegible] Manitoba [illegible] East and West [illegible] rates. Indeed in his Exhibit 326, Mr. Moffat included the grain rates.

The above table and the results of the latest calculations should set at rest complaints in Western Canada about the substantial disparity between West and East, since the calculation is made on the same basis as Mr. Moffat's original study. However, in the view of Canadian Pacific, whatever faults there may be in such a study, there are differences in the rates East and West. These differences [illegible] West and [illegible] cases in favour of the East. Moreover, there is no doubt that the Eastern rate level has been depressed by virtue of water competition [illegible] competition which exists there. This seems to be admitted because on pages 4 and 5 of Chap. X of Manitoba's Brief, concern is expressed that the differential in future will increase due to competitive rates. It is really hard to understand Manitoba's difficulty. The Brief elsewhere admits that so long as competitive rates are compensatory and are required by the competition, the railways should have the right to publish them. If, therefore, the railways are to have this right, it may well be that the disparity between East and West can never be wholly eliminated until the competitive conditions have become the same. The fact remains, however, that the railways

themselves have indicated their intention of equalizing the class rates and commodity mileage rates.

During the course of the hearings in the 21% Case the railways pointed out that that case was primarily a revenue case and that they would welcome a general freight rates investigation into this and other questions relating to the rate structure after the conclusion of the hearings in the revenue case.

On April 7th, 1948, the Governor-in-Council issued Order-in-Council P.C. 1487, in which the Board was ordered to undertake such a general investigation.

In July of 1948, when the railways filed an application with the Board of Transport Commissioners for a further increase in rates, the railways indicated that during the course of the general investigation undertaken by the Board pursuant to Order-in-Council P.C. 1487, they would have proposals to make with a view to equalizing rates between Eastern and Western Canada so far as that could feasibly be done. This was intended to provide an assurance to parties interested in rate increase cases that the railways were not only not objecting to a general investigation into such matters but were preparing to make proposals to bring about some measure of equalization.

During the course of the hearings before your Commission and in many of the submissions made, the expressed intention of the railways to make proposals for equalization appears to have been ignored. In order to set at rest the complaints with respect to alleged disparity, which have been repeatedly made to your Commission, Canadian Pacific believes that while its studies in connection with its equalization proposals are not complete, some outline of the nature of these proposals might properly be given to your Commission. In this connection Canadian Pacific points out, as it has done at several stages of the hearings, that the detail of the method as well as the

extent to which it can be carried out must depend upon the study of data being obtained by the Board in connection with its waybill study. This data is not as yet fully available and the proposals accordingly cannot yet be crystallized.

With these qualifications, and having in mind the vital necessity of preserving the revenue of the railways, it can be said that the railways propose equalization of the standard class rates, the distributing class rates and the commodity mileage scales as between Eastern and Western Canada.

On the other hand the railways do not propose and do not believe it practicable or even desirable, to attempt equalization of special commodity rates or competitive rates. In the case of certain special commodity rates, some of the point-to-point rates are related to commodity mileage scales. Since these commodity mileage scales are to be equalized they will, to that extent, tend to make possible the equalization of point-to-point commodity rates which are related to them.

In approaching the question as to how far equalization can be carried out, Canadian Pacific draws to the attention of your Commission the following matters which provide difficulty:-

First, the Maritime Freight Rates Act will probably require amendment if the equalization proposals are to be carried out. This is because in the equalized class rate scales, both the standard class rates and distributing class rates will generally be somewhat higher than the Eastern standard class and town tariff distributing rates. In the circumstances, therefore, equalization will generally speaking require some increase in these rates. Under the Maritime Freight Rates Act it is probable that no increase in the rates subject to that Act can take place unless as a result of an increase in the cost of operation of railways in Canada (see Sec. 3(2) (b) of the Maritime Freight Rates Act).

Secondly, in another part of the submission made by Canadian Pacific it is made clear that the so-called Crow's Nest Pass grain rates within Western Canada are not compensatory. No scheme of equalization would be true equalization as between Eastern Canada and Western Canada unless in some way it took into account all advantages as well as disadvantages in both areas. The fact that the Crow's Nest grain rates have not been under the jurisdiction of the Board of Transport Commissioners but are fixed by statute at the level existing in 1899, makes it impossible without an amendment to The Railway Act to have these rates reach their proper level. In the result, therefore, the extent to which these rates are below what would be just and reasonable is a measure of disparity in favour of Western Canada as against Eastern Canada.

Equalization would not be true equalization unless the so-called Crow's Nest Pass grain rates were allowed to find their proper level under the jurisdiction of the Board of Transport Commissioners.

Thirdly, there are two cases where the rate level is affected in Western Canada by so-called "assumed mileages", that is to say, assumed mileages between Fort William and Winnipeg and between Vancouver and Glacier, B.C. No equalization scheme would be true equalization unless these assumed mileages were eliminated from the rate structure.

Subject to a solution of the foregoing problems, the scheme of equalization would be as follows:-

As to the Standard Mileage Class Rates

The first step would be to average the first class rates in the Ontario-Quebec and the Prairie-Pacific standard scales.

The second step is to establish the relationships between the classes. It is proposed that the following relationship shall be established:

First Class	100%
Second Class	85%
Third Class	70%
Fourth Class	55%
Fifth Class	45%
Sixth Class	40%
Seventh Class	35%
Eighth Class	35%
Ninth Class	40%
Tenth Class	30%

The third step is to work out the appropriate rate of taper due to distance. This will probably be done by applying to the equalized first class rate a minimum for distances of 40 miles and less and by adding amounts for each five-mile block up to and including 100 miles; for each ten-mile block up to and including 500 miles; and for each twenty-five-mile block up to and including 3000 miles.

After study it was not found practicable to take the average rate of taper of the existing Eastern and Western standard mileage scales. Neither is it deemed fair, as suggested by Alberta in its brief, to accept the rate of taper in Western territory as the rate of taper on the equalized scale. This is because the rate of taper on the Prairie standard scale is much sharper than in the Eastern standard scale.

As to the Distributing Class Rates.

It is proposed that the new equalized distributing scale would be arrived at by using, for distances 200 miles and less 90% of the new equalized first class standard rates, and for distances over 200 miles 85% of the first class standard rates, with the proviso that the rate for 200 miles

shall be the minimum rate for distances in excess of 200 miles. The relationship between the classes and the rate of taper will accordingly follow the relationship and rate of taper in the equalized standard scale.

It should be noted at this point that the Superior standard class rates which are now higher than any scale in Canada will be abolished and the new equalized standard and distributing class rates made applicable to that area.

<u>As to Class Rates between Eastern Canada and Western Canada.</u>

Your Commission will recall that the class rates between Eastern Canada and Western Canada are a combination of two factors; that is to say, west of Fort William, the Fort William terminal rates apply, and east of Fort William the basing arbitraries apply. The terminal rates are the Prairie standard mileage class rates reduced by the effect of the assumed mileage between Fort William and Winnipeg.

East of Fort William the basing arbitrary is blanketed throughout the territory Montreal and west to Fort William.

The equalization proposal will necessitate a revision of both these factors. The Western factor will become the new equalized distributing class rates with the elimination of the assumed mileage. The Eastern factor will be increased somewhat in order to compensate for the reduction in the class rate scales in the West as a result of the equalization proposal. As the arbitrary east of Fort William has nothing in common with other rate scales either as a whole or as regards the individual classes, and as they apply from and to stations in Eastern Canada over a wide area, it is not possible to assume the realignment of the arbitraries in conformity with the changes made in rates in Eastern Canada.

After much study a tentative conclusion has been reached that these basing arbitraries can only be increased about one half of the [illegible] comparable distances in Eastern Canada will be increased under the equalization proposal. This is on the assumption that since the basing arbitrary covers a wide area as a blanket, one half of the rate of increase would cover the same increase at the average point. Accordingly the basing arbitraries east of Fort William will probably be re-constructed by increasing the present Fifth Class basing rate by about 12 cents; by assuming the Fifth Class rate to be 45% of First Class; and by scaling the other Classes on the same percentage relationship as the proposed new equalized class rates. Under such a proposal the intention would be that the basing arbitraries for the territory east of Montreal would continue to exceed the Toronto-Montreal basing rates by the same amounts as at present and that the current rail-lake-rail and water-rail differentials will be maintained for all territories.

This change in the East-West class rates will probably require the establishment of a new rate group which it is proposed to call the Northern Ontario rate group. This will include the territory on and south of the line of the Canadian National (National Transcontinental) east of Armstrong; all territory east of Port Arthur and north of Lake Superior, St. Mary's River, Lake Huron, and Georgian Bay; territory on and north of the line of the Canadian National from South Parry to Scotia; territory on and west of the line of the Canadian National from Scotia to North Bay; and territory on and west of the line of the Ontario Northland from North Bay to New Liskeard and the Ontario-Quebec boundary to the line of the Canadian National (National Transcontinental).

As to the Commodity Mileage Scales.

The Board will recall that during the regional hearings comparisons were made by reference to exhibits filed in the 21% Case which showed that in Western Canada certain of the commodity mileage scales were lower than in Eastern Canada and that the reverse was true in a number of other instances. Exhibits 53 to 60 in the 21% Case show these differences.

The problem of equalizing these scales since they involve a large volume of traffic, is to find not only a proper basis for equalization in itself but also one which will yield to the railways approximately the same revenue as is received under the present mileage scales while causing the least disturbance to shippers and consignees.

This is a work of some magnitude and complexity. It can only be completed when the information obtained from the waybill study now being undertaken by the Board, is made available. This study involves in itself a large amount of work on the part of the railway staffs and not all of the test days have as yet occurred. The test days have been spread throughout the year so as to reflect seasonal changes in traffic movements. In all probability it will be many months before the compilation and analysis of the data can be completed.

However, careful and extensive consideration of the matter so far indicates that the most satisfactory method of constructing equalized commodity mileage scales will result from basing them on percentages of the proposed uniform standard mileage rates. As indicated above, the relationship must depend upon the outcome of the waybill study.

Certain of the point-to-point commodity rates are related to these scales and accordingly when the commodity mileage scales are equalized, those of the point-to-point commodity rates which are related to them will also be equalized.

An exception in the equalization in the commodity mileage scales will have to be made in certain cases where the commodity mileage scales both in Eastern and Western Canada have been designed to meet motor truck competition. It is not practicable to attempt to equalize these scales because the competitive forces which affect them, vary in different sections of the country.

As to Point to Point Commodity Rates.

Because of the large number of these rates and the fact that they reflect not only local conditions but also reflect the needs of local industries it is not, in the opinion of Canadian Pacific, practicable to attempt to equalize these rates with the exception of those that are related to the commodity mileage scales.

The Province of Alberta suggests a means of equalizing these rates by taking the lowest rate affecting a particular commodity as the basis for the equalization. No equalization can, in the opinion of Canadian Pacific, be accomplished on such a basis without great disturbance to industry as a whole and without a serious effect on the revenue of the railways.

As to Competitive Rates.

Since competition varies in different parts of the country, and since competitive rates would be unjustly discriminatory except for the competition, it is not practicable to equalize such rates as between Eastern and Western Canada.

Alberta deals more extensively than any of the other provinces with the subject of equalization and the means by which it can be brought about. This is to be found in the volume of Alberta's brief entitled "Rate Making Principles and the Rate Structure".

Chapter II of this brief attempts to define the equalization principle; reviews Alberta's views as to the justification made in the past for differences as between regions and the level of rates and similar subjects; while Chapter III deals with specific suggestions as to the means by which equalization may be achieved.

The principal differences between the position taken by Alberta and the proposals which are to be made by the railways on this matter are:

First - differences in concept;

Second - differences in the method by which and the extent to which equalization should be brought about.

As to the differences in concept, Alberta bases its case upon an attempt to distinguish between "personal discrimination" and "regional discrimination". On page 12 of Chapter II the suggestion is made that The Railway Act "is now primarily concerned with 'personal discrimination'". With regard to this the brief states at the bottom of page 12 that:-

> "With respect to personal discrimination it may be said that the Act has fulfilled its purpose".

and that

> "Personal discrimination is no longer the serious problem."

However, on page 13 of the same Chapter the suggestion is made that complaints regarding "regional discrimination" in the past had been rejected by the Board because these complaints did not involve "personal discrimination". The argument is

made that although subsection 4 of Section 314 prohibits discrimination between localities, it is founded upon the concept of "personal discrimination". The argument then is that complaints of "personal discrimination" were successful only if proof of detriment could be given; that is to say, presumably "personal discrimination" must be "unjust discrimination".

The argument concludes that "regional discrimination" is not prohibited in the absence of proof of detriment. It follows that Alberta believes that since "regional discrimination" should be prohibited without proof of detriment, it should be on a different basis from what Alberta calls "personal discrimination". In the submission of Canadian Pacific the argument is basically wrong in concept. [illegible] because it was concerned mainly with "personal discrimination". Alberta on the other hand has proved by its argument that the Act is also concerned with "regional discrimination" on exactly the same basis as is applied in the case of so-called "personal discrimination".

In the view of Canadian Pacific, therefore, if "personal discrimination" is adequately provided for in the Act, it necessarily follows as a matter of principle that proof of detriment should be required in deciding questions of regional or locality discrimination and there is no reason for rejecting the idea that proof of detriment is a necessary element in the one, while conceding it in the other.

It follows that the assertions on page 13 of the same chapter that complaints of "regional discrimination" were rejected because no "personal discrimination" was involved and that such complaints foundered because "regional discrimination" is not recognized as being within the statutory prohibition of the Act, are plainly without foundation. The fact is that if complaints

of "regional discrimination" foundered, they foundered because of lack of proof of detriment.

The suggestion is made on pages 16 to 18 inclusive that the concept of "regional discrimination" can now be said to be firmly established in the United States. Canadian Pacific points out that there is no different concept of "regional discrimination" in the United States from that in Canada and that reginal differences in r ates are far greater in that country than they are in Canada.

On Page 18 Alberta suggests that differences in regional costs and traffic densities are not adequate standards by which to determine regional rate differences and it is stated that revenues and investment must also be taken into account.

On page 19 of the same Chapter Alberta states that it is not opposed to the principle of permitting regional advantages or disadvantages to be reflected in the rate structure in some fashion.

It is difficult to see how this exception can be given effect to while accepting Alberta's other statements on the principle of equalization, because there are and must inevitably be wide differences in operating ratios for the different regions.

As to the differences in method and extent of equalization, Canadian Pacific submits the following:-

It is part of Alberta's submission that specific or point-to-point commodity rates can and should be equalized. For reasons stated elsewhere in this Submission, it is the view of Canadian Pacific that this cannot be done and if attempted, would result in substantial disturbances in existing rate relationships, as well as provide a most difficult and complex matter from the tariff and revenue standpoints.

The suggestions of Alberta as to the method of achieving equalization appear in Chapter III of the same Volume. The suggestions made by Alberta are: to take the rate of taper in the west because it is most favourable; to take Schedule "A" rates in the east as a basis for equalizing the distributing class rates; to take the lowest of the eastern and western scales in equalizing the commodity mileage rates; and to develop a uniform formula for all specific commodity rates. The resulting new rate structure would be adjusted upward as a whole, to provide for the deficiencies in revenue resulting from the equalization process. (See Page 50 of this Volume of Alberta's brief, where Alberta's proposals are summarized).

Canadian Pacific believes that this is an unduly complicated method to pursue. Apart from the matter of equalizing the special or point-to-point commodity rates, it is not greatly different in result from the equalization proposals of the railways. These are simpler to understand while providing an easier means of ensuring the maintenance of the existing level of railway revenue.

Alberta's submissions in Chapter III relating to volume discrimination are difficult to understand. On page 29 Alberta apparently concedes the necessity for giving some effect to volume but suggests "it would be easy to slip into the position that an entirely different standard of reasonableness in rates applies to heavy movements of traffic than to light or occasional movement..."

On page 31 Alberta makes much of the position of the small shipper in this connection; that is to say, after discussing the matter of volume as though it were a principal factor, it suggests that the shipper in small volume is necessarily deprived of the benefit of the lower rate due to his inability to ship in volume.

Much of this argument is, in the view of Canadian Pacific, almost specious. An examination of the classification and of the principles relating to differences in rates as between carload and less-than-carload movements, will demonstrate that the motive behind the existing practice is one closely allied to the differences in cost of handling a smaller as compared with a larger volume. The Board, however, has always placed strict limits on this so-called "volume discrimination". For example, the Board has rejected proposals for establishing rates based on train loads as compared with carload movements. There is nothing in the Act or in the practices of the railways under the present system of regulation to suggest that the small shipper is being discriminated against or that the principle underlying the so-called "volume discrimination" is in any way unfair to the small shipper. While there are undoubtedly different rates for different carload minima, a wide variation in volume is permitted before any change in rates becomes effective. In the case of competitive rates, a different reason for so-called "volume discrimination" exists, since the necessity for competitive rates must have regard to the competition. The same reasons exist here for making the distinction in regard to volume as are made with regard to the level of competitive rates itself: that is to say, what is required to meet the competition.

On page 29 Alberta states that the establishment of non-competitive uniform commodity rates is one means of limiting volume discrimination. This, in the view of Canadian Pacific, is based on the assumption that the differences in point-to-point commodity mileage rates are largely attributable to volume. This is clearly not the fact. They are in the main attributable to other factors. When one is considering whether a rate can move the traffic one necessarily considers that if there is a volume to be moved, it is cheaper to move the volume than to put in a

rate which will move only a portion of the volume. This is a very different principle than that to which Alberta is apparently directing its argument. It is not really a preference based on volume but a principle by which the traffic is to be moved.

Your Commission will note the argument on page 31 of the same Chapter that it is difficult to avoid the conclusion that if the small shipper's traffic will bear the higher rate then the larger shipper's traffic will bear the rate equally well.

It should be said here that railways do not make lower rates to a shipper with larger volume than they make for a shipper with smaller volume. Railways, however, do make rates between points where a volume of traffic is moving but refrain from making lower rates in instances where the volume of traffic moving would not be increased by having a lower rate. In either case the treatment of the smaller shipper and of the larger shipper between the points affected is exactly the same. In Canadian Pacific's submission there is a vast difference in principle between this practice and the inference in Alberta's submission to the effect that the railways deprive the smaller shipper of the benefit of the lower rate. What Alberta apparently overlooks is that there are large and small shippers in almost all areas and while the necessity for an existing rate may be determined by the necessity for moving a given volume of traffic which would not otherwise move, the small shipper automatically receives the benefit of it. The small shipper is protected under The Railway Act from unjust discrimination.

On page 31 of this Chapter reference is made to the apparent distinction made by the Interstate Commerce Commission between carload and less-than-carload rates solely upon the difference in cost of service. Comment is made by Alberta that

it is difficult to escape the conclusion that volume is an important factor in this distinction and that it is significant that the Commission should take such an "extreme position".

This, in the view of Canadian Pacific, is confused thinking since Alberta does not distinguish between "volume discrimination" due to differences in cost and "volume discrimination" as between shippers where there are no differences in cost.

At pp. 24 to 26 of Alberta's brief entitled "Rate Making Principles and the Rate Structure" Alberta advocates making the new uniform distributing class rate scale as maximum for so-called inter-territorial class rates. That is to say, that the class rates between Eastern and Western Canada which are made upon factors East and West of Fort William should, in no event, exceed the new equalized distributing class scale for the through distance between any two points.

Canadian Pacific submits that the pattern of the proposed new class rates between Eastern and Western Canada would largely meet Alberta's contentions. However, with the blanketing of many points East of Fort William in Eastern Canada, there will be some points in which the new uniform distributing class rate scale would be exceeded for the through distance. While there will be some of these points in the centre of the blanketed territory, the rates from the extremes such as Windsor and Montreal will be under the new equalized distributing class rate scale for the through distance.

INTERLINE RATES

Interline rates as referred to in the submissions of the Provinces and other parties involve:-

(a) Rates from a local point on one railway to a local point on another railway.

(b) Rates from a local point on one railway to a point on that railway which is served also by another railway.

(c) Rates from a point served by more than one railway to a local point on one of the railways.

(d) Rates from a point served by two or more railways, to another point served by the same railways.

As to (a) - It is argued that combination or through rates should be made by the use of the distance through the interchange point making the shortest through distance although by agreement between the carriers the traffic may be handled through another interchange.

As to (b) and (c) - It is argued that rates should be made by the use of the single line distance of the railway serving the local point.

As to (d) - It is argued that rates should be made by the shortest single line through distance.

The matter of interline rates is within the exclusive jurisdiction of the Board of Transport Commissioners as will be seen from the following extracts from the Railway Act:-

> "336. (1) Where traffic is to pass over any continuous route in Canada operated by two or more companies, the several companies shall agree upon a joint tariff for such continuous route, and the initial company shall file such joint tariff with the Board, and the other company or companies, shall promptly notify the Board of its or their assent to and concurrence in such joint tariff."

> "337. (1) In the event of failure by such companies to agree upon any such joint tariff as provided in the last preceding section, the Board on the application of any company or person desiring to forward traffic over any such continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time,

to agree upon and file in like manner a joint tariff for such conti[illegible], satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect."

In Alberta's brief entitled "Interline Rates" at page 3, reference is made to the decision of the Board of Transport Commissioners in Joint Rates (1916) VI J.O.R.&R. 406. It is interesting to observe that in this Judgment the then Chief Commissioner made the following statements:-

"In other words, no joint rate under the Act is required by the Act for a movement covered by the rates of a single carrier by an existing reasonable and practicable route between the same points and applicable to the same classes of traffic or by the rates over a new joint route which is also reasonable and practicable."

There are many joint interline rates within Canada. These rates are widespread and are not confined to one section of the country. They are relatively as numerous in Western Canada as in Eastern Canada.

In general, interline rates have been established wherever there is necessity for them, and where a reasonable amount of traffic, moving with some degree of regularity, is involved. Such rates are usually related to the single-line rates, with appropriate addition to cover the extra costs inherent in the handling of interline traffic. Canadian Pacific has been, and always is, willing to establish joint interline rates where necessary.

The Canadian railways publish proportional rates lower than the local rates on many commodities to and from junction points in [illegible] mileage rates and many specific commodity rates. They authorize a reduction from the rates to and from points beyond the junction points amounting to one-half cent per 100 lbs. when the rate is 9¢ per 100 lbs. or less, and 1¢ per 100 lbs. when the rate is over 9¢. These were published to provide rates which were considered to be reasonable for application on irregular joint interline movements of small volume.

In submissions made to the Commission and in discussions before the Commission, the establishment of joint through interline rates between all points in Canada was advocated. Briefly, the following suggestions were made:

First - that facilities for interchange of freight, where not at present in existence, be established at all points where two or more railways serve such points. (Saskatchewan Federated Cooperative - Transcript pp. 1257 and 1258).

Secondly - that joint through rates be established between every two stations in Canada via such interchange points. (Saskatchewan Federated Cooperative - Transcript pp. 1257 and 1258).

Thirdly - that joint through rates be established on a basis similar to the rates for single-line hauls, the distance used in arriving at such rates to be the shortest route over which carload traffic can move without transfer of lading. (Province of Alberta - Volume on Interline Rates; Saskatchewan Federated Cooperative - Transcript pp. 1257 and 1258).

Fourthly - that between competitive points the use of multiple-line distances be employed when less than the shortest single-line mileage of any railway serving both points. (Saskatchewan Federated Cooperative - Transcript pp. 1257 and 1258).

As to the First Suggestion:

Canadian Pacific and its subsidiary lines maintain interchange facilities with connecting carriers operating in Canada at 206 junctions through which carload freight can be interchanged without transfer of lading. At 21 of such

junction points there are no facilities for the interchange of less than carload freight.

At 56 of these junctions less than carload freight is interchanged either through direct track connections or the use of joint sheds, while at 145 junctions the interchange of less than carload freight is effected through cartage between freight shed of Canadian Pacific or its subsidiary lines and freight shed of the connecting carrier at the junction point.

In addition, there are 19 stations on the Canadian Pacific or its subsidiary lines where although there are no facilities for the interchange of carload freight, there are facilities for the interchange of less than carload freight.

The establishment of interchange facilities at all points where two or more railways serve such points would involve a very considerable outlay of money and materials on the part of the railways with few, if any, compensating advantages, either in the way of additional traffic or saving in expense of operations.

It is very questionable if any considerable volume of traffic would be handled via the additional interchange points, and such traffic as was actually handled would to a very large extent be taken away from other interchange points through which the traffic had previously moved. There are interchange points now in existence through which the movement of interline freight is relatively light.

The establishment of interchange facilities has always been considered by the Board of Transport Commissioners on the basis of public convenience and necessity, and rightly so. The amount of traffic, present and potential, should be the guide as to whether or not interchange facilities are actually required, and not the mere fact that two or more railways serve a given point.

In this connection, the [illegible]

then Chief Commissioner, in <u>Canadian Northern Ry. Co. v. [illegible]</u> 20 C.R.C. 84, outlines the view of the Board as follows:

> "It is necessary for the Board, however to determine some principle on which these interchange tracks and through rates are to proceed.
>
> The statute calls for reasonable and proper facilities for the interchange of traffic and for the return of rolling stock. With the large amount of regrettable duplication of railways, it certainly would not be either reasonable or proper that such interchange tracks, involving as they do at least some cost in every instance not only for construction but also for maintenance and operation, should be installed at every point possible; and, if joint rates had to be filed as and when such possible interchange tracks were put in, the only result would be to absurdly duplicate tariffs and add to the cost of railway operation without resultant benefit to traffic conditions."

<u>As to the Second Suggestion:</u>

The publication of joint through rates via all interchange points would involve a tremendous amount of very complicated tariff publication, the expense of compilation and printing of which would be very great. The amount of traffic on which such rates would be applied would, in many cases, not be large enough to justify the labour and expense involved.

This suggestion is undoubtedly made with the principal object of securing a reduction in freight charges and while this would be realized in certain instances, it is questionable whether the saving thus effected would, in the aggregate, amount to any very considerable sum. It would only benefit movements of goods that are for the most part sporadic. As a general rule, interline movements of any real volume are today subject to joint through rates, and the railways are always prepared to give consideration to the establishment of additional interline rates as the necessity for them arises.

There would inevitably be many such joint through rates which would not be used, because of the lack of traffic moving through the junction points through which the rates are effective.

As against such saving in freight charges as might be realized by shippers, consideration must be given to the expense incurred by the railways in providing and maintaining additional facilities for the interchange of freight traffic where such do not now exist, the compilation and printing of voluminous freight tariffs, and the dislocation of existing freight train schedules. It is the opinion of Canadian Pacific that the comparatively small savings realized by the shipping public as a whole would be very much more than offset by the additional expense incurred by the railways which must ultimately be borne by the users of railway service.

As to the Third Suggestion:

If joint through rates are established via the shortest route over which carload traffic can move without transfer of lading, the application of a basis of rates similar to that for single-line hauls via such routes would, in addition to increasing the costs, also result in very substantial reduction in the revenue of the carriers.

There is also involved in multiple-line hauls the cost of transfer at the interchange point, and in the case of less than carload traffic, this frequently involves a cartage charge between the freight sheds of the respective railways. Such additional expense should be included in any joint through rates as has been recognized by the Board and by the Interstate Commerce Commission.

In the report made by the late Mr. J. Hardwell, Chief Traffic Officer of the Board of Railway Commissioners, dated July 23rd, 1919, in advocating a basis for contructing joint through class rates between points in Ontario and Quebec, he recommended the publication of joint through class rates between points on the Grand Trunk, Canadian Pacific and Canadian National Railways, based on the addition of arbitraries to the single

line rates. The arbitraries, he considered, should be sufficient to cover the cost of transfer at the interchange points as well as some addition to the single line rate because of the two line haul.

Mr. Hardwell's recommendation was adopted by the Board, and the railways were ordered to publish joint through class rates on this basis in Order No.28618 of 1st August, 1919.

The railways did not consider that this basis of rates was sufficiently high to cover the transfer costs and the additional costs of the two line haul. Neither did they feel that there was sufficient traffic involved to warrant the publication of the additional joint through class rates. As a result of subsequent representations made by the railways, the Board rescinded Order No. 28618 on 23rd March, 1920, by Order No. 29495. Nevertheless, it is quite apparent that the Board recognized the necessity for some addition being made to the single-line rates when joint hauls were involved.

The suggestion for the establishment of joint through rates on the basis of the shortest route over which freight can be handled without transfer of lading, accompanied as it is by other submissions for the establishment of interchange points at all points of intersection, can in essence only be an attempt to break down existing single line rates. This is so because, if the traffic were to move through the new junction points rather than by the single-line haul, many cases would exist where the originating carrier would only get a short haul to the junction points. This result would be reflected in the division arrangements with connecting carriers. Since it is a well recognized principle that no railway can reasonably be expected to short haul itself, the practice would then grow up of having the originating carrier reduce its single line rate to the reduced rate for the shorter mileage through the

junction point. The originating carrier would be compelled to do this in order to retain as much revenue as it could and in order to avoid short hauling itself. Thus it would inevitably result in a breakdown of the existing rate structure to a level below what the distance would normally require.

As to the principle that railways are entitled to avoid short hauling themselves, reference is made to Imperial Steel & Wire v. Grand Trunk Railway, 11 C.R.C. 395 and the Chief Commissioner's judgment at p. 399 in which he says:

> "In any event, it is well settled that the initial or originating railway company is entitled to as long a haul upon its own lines as may be reasonable. This is laid down in the English case of The Plymouth, Davenport and South Western Junction Railway Company v. Great Western Railway Company, 10 Ry. & C. Tr. Cas., page 68. The following is an extract from the judgment in this case:-
>
> > 'For instance, on the one hand, we have to take into consideration that the Great Western Company ought not, without some due cause in the public interest, to be deprived of the advantage of its long run in respect of traffic which has originated on its own system.'
>
> It is not necessary to say anything further upon this point, as the foregoing covers the applicants' complaint."

In considering the third suggestion, regard must be had to its effect upon the quality of service.

Many junction points are located on branch lines of one or both of the connecting railways, and the number of these would be increased if interchange facilities were established at all points served by two or more railways. Branch line train service is not, generally speaking, as good as that afforded on main lines, as it is not warranted by the volume of traffic. In some cases train service on branch lines is tri-weekly, bi-weekly or weekly. Regular interchange points are now available via which general working arrangements are in effect and train schedules are set up by each line for the prompt handling

of traffic through such junction points. It would be most difficult, if not impossible, to arrange train schedules so as to provide convenient connections at so many junction points and to give an efficient and satisfactory service such as the public demand.

Delay in handling traffic by way of branch line junction points, when there is a reasonably direct main line junction available through which a daily service can be obtained, would offset, to some extent at least, any possible saving in freight charges.

The handling of traffic through junction points located on branch lines where there is only tri-weekly, bi-weekly or weekly service, as compared with handling through junctions on lines over which a daily service is maintained, would inevitably result in delays in the handling of goods. Such delays could in certain instances be costly to shippers, and might result in loss of sales.

If, however, the railways were compelled to establish joint through rates between all points by way of the shortest available working route in each case, but, in the interests of better service, elected to handle the traffic by a longer route, some additional compensation for the additional service performed would be required.

As to the Fourth Suggestion:

The use of the joint distance of two or more carriers between competitive points, when shorter than the shortest single-line distance of any one carrier serving both points, would not necessarily result in a lower rate. It has already been shown that some addition to the single-line rate, when constructing rates for joint hauls, would be required to take

care of the cost of transfer at the interchange point.

Unless, therefore, the distance by the single-line haul is unduly circuitous, the rate which would be constructed for the joint haul would be in excess of that applicable by the single line.

In addition, the carrier serving the originating point is entitled to the longest reasonable haul. If the same carrier also serves the destination, it follows that it is entitled to haul the goods through from origin to destination, and should not be compelled to give the traffic up to a connecting carrier at some junction point short of the final destination. At the same time, the single-line carrier is entitled to receive revenue based on the recognized scale of rates for the length of the haul it performs.

Even though the two line haul may be shorter than the one line haul, the service by the two line shorter route would not be as good as service via the single line in view of the necessity of switching service which would be required between the connecting railways at the junction point. Moreover, the shorter two line service would be more costly to the railways than the longer single-line haul.

The manner of computing distances for rate making purposes as proposed by Alberta has been used to a considerable extent in the United States, but not as a means of extending the application of single-line scales to interline hauls. The method has only been used in connection with class rate scales that have been prescribed by the Interstate Commerce Commission to apply on both single-line and interline hauls, after that Commission had taken into consideration all of the circumstances relating to both the single-line and interline movements.

That Commission has prescribed many commodity rate scales that are higher for interline than for single-line hauls. The system of interline rates for wide application is a necessity in the United States because railway systems in that country tend to be regional rather than national in scope and are far more numerous than in Canada.

In Western Canada there is now a complete coverage of interline rates on coal and lumber, and on fruits and vegetables, because such interline rates are necessary on account of the large volume handled. There are also interline rates on many individual commodities where required. There are also interline rates on all freight, carloads and less than carloads, between Eastern Canada and Western Canada.

At pp. 9 - 11 of the Alberta brief, the interline rates on cement from Exshaw, Alberta, to points on the Canadian National Railways are attacked on the ground that they are a combination of rates Exshaw to Calgary, and Calgary to destination, although the routing may be through some other junction point. There have been no complaints from either shippers or consignees respecting the rates on cement from Exshaw, Alberta, to Canadian National destinations.

At p. 11 of the Alberta brief, reference is made to interline rates on brick from Medicine Hat and Redcliff, Alberta to Canadian National destinations.

Canadian Pacific has a number of interline rates on brick and clay products from Medicine Hat and Redcliff to Canadian National destinations. Rates to other destinations are based upon reductions in the rates to and beyond the junction points in the manner indicated elsewhere herein.

There are also brick and clay industries on the lines of the Canadian National Railways in Saskatchewan and these have therefore single line rates to Canadian National destinations. The basis of interline rates from Canadian National points to points on the Canadian Pacific Railway is the same as that from Canadian Pacific points to destinations on the Canadian National.

With regard to the submissions of the Transportation Commission of the Maritime Board of Trade, attention is drawn to the following statement at page 3703 of the transcript:-

> "When the Canadian National Railways published rates subject to the Maritime Freight Rates Act it was found that the alternative routings via Saint John and Ste. Rosalie were not provided. The matter was subsequently referred to the Supreme Court of Canada, who found to the effect that the Railway Board has no jurisdiction under the Maritime Freight Rates Act 'to order rate reductions on freight routed to the west from points on the C.N.R.' (on which reductions are compulsory) 'via Saint John and thence over the C.P.R. on which reductions are only optional, but may order reductions on such freight routed via Ste. Rosalie which is a junction point of the C.N.R. and C.P.R. west of the territory affected by the Act.'"

Canadian Pacific is not opposed to the reopening of the Saint John gateway on the traffic to which reference is made.

The expenditure of large amounts of money and materials necessary for the construction of interchange facilities at many additional points; the additional operating costs that would result in most instances; and the expense of tariff publication required to establish joint through rates between every two stations in Canada, would in the opinion of Canadian Pacific, greatly outweight any possible saving to the shipping public through the medium of lower freight rates which might result in certain instances. In the final analysis, the position of the general shipping public and that of the railways would be impaired rather than be improved.

Prior Approval of Rate Changes By Board of Transport Commissioners for Canada

Suggestions have been made to your Commission that before a new rate is made effective or an old rate changed, particularly special or competitive rates, the railways first satisfy the Board of Transport Commissioners of the necessity and profitability of such proposed rate. The further suggestion is that once a rate is established it should not be withdrawn without first obtaining the approval of the Board.

Among those making such suggestions are Manitoba Federation of Agriculture and Co-Operation, the Manitoba Co-operative Wholesale Ltd., and the Province of British Columbia.

The submission of the Province of British Columbia was compiled by the Assistant Director, Bureau of Economics and Statistics of the British Columbia Government.

Upon cross-examination by railway Counsel, the witness for the Province of British Columbia admitted that he could not speak for the shippers in British Columbia in advocating this particular measure as he had not discussed it with them before including it in the submission (Transcript pp. 2618-9).

Witnesses for other groups, however, such as the Paper Manufacturers and Converters of British Columbia (Transcript p. 2957-8) and British Columbia Lumber Manufacturers Association, (Transcript p. 3033) stated that they were opposed to such a procedure. It was their view that the present method of direct negotiation with the carriers was the most satisfactory. This is also the position taken by the Canadian Manufacturers Association (Transcript p. 5840-1).

In the view of Canadian Pacific, any such legislation would not be in the interests of either the public or the railways. Moreover, such legislation would in all likelihood be opposed by industry in general throughout the country.

The necessity of the railways submitting full particulars of each and every rate change to the Board of Transport

Commissioners for their approval prior to the tariff publication would result in substantial delays in having rates made effective.

Publication of commodity rates and competitive rates generally require prompt action. This is as much to the advantage of shippers as it is to the railways because delays in having rates established would impede shippers in reaching or developing new markets.

When new industries are being developed one of the questions to be determined is that of the freight rates which will be available to it when required. It becomes essential both from the standpoint of location and from the standpoint of preliminary calculation as to whether the industry can afford to go into business in the face of existing competition, to know quickly what its rates will be. Under the p ropcsal as made to your Commission, the railways could not make any firm quotation upon which an industry could rely unless it first obtained the approval of the Board. Not only would this cause delay but it would prevent conversations taking place between the industry and the railways with a view to having an even lower quotation made. The interjection of the Board into discussions of this kind before it was definitely known that the rate would be utilized would effectively prevent industry having advance knowledge of such matters.

In some cases the first quotations made by the railways will be the subject of further study and negotiation and in the result the whole procedure of establishing such rates would be greatly delayed by the intervention of the Board. After the rate is published, the same procedure would require further intervention of the Board before the rate could be removed even though it should be discovered that the rate is not in fact being used by the industry for which it was published.

Rate quotations are also made to various industries to enable them to make bids for business. Some of these quotations are ultimately withdrawn as the rates are not required to be published. It would be an unnecessary burden in the opinion of

Canadian Pacific on both the board and the railways if such quotations had first to be submitted to the Board for approval.

Moreover industry on the other hand might in the delay which would ensue from getting the approval, be unable to bid for the business involved and the business would then be lost to the industry requesting the quotation.

As to rates which have become absolete or upon which no traffic is moving, the necessity for obtaining the prior approval of the Board to their removal or cancellation would, in the view of Canadian Pacific, be an unnecessary waste of time and expense. Similarly, in the case of competitive rates, where the competition was no longer such as to require the rate to remain in effect, the railways would lose considerable revenue owing to the delay in obtaining the approval of the Board.

The present practice, in the view of Canadian Pacific, is much to be preferred over the proposed alternative. Carriers may publish reductions in rates on three days notice to the Board of Transport Commissioners and increases, except in the case of standard rates, on thirty days notice. Any rates so published can be attacked at any time either before or after they become effective and all interested parties, including Boards of Trade and shippers' organizations, can obtain copies of all tariffs and supplements so filed by having their names placed on tariff mailing lists maintained by the railways. They are, therefore, in a position to oppose any increase in rates or cancellation of existing rates well within the thirty day period by merely filing a protest with the Board. In proper cases the Board may actually suspend, and in many cases has suspended, proposed increases in rates before they become effective, pending investigation and hearing of the complaint.

One aspect of the matter which is not infrequently met by the railways is that of confidential enquiries through persons contemplating establishing industries. These persons would not desire to have their plans made public until a final decision regarding their plans has been made. If the Board had to be brought into the matter and other persons notified, it might prove embarrassing to the industry.

Minimum Rates

This subject was brought to the attention of the Royal Commission in the submissions of the British Columbia Government and the Paper Manufacturers and Converters of British Columbia and was dealt with in cross-examination of the witnesses.

Suggestion was made to the Commission that the Board of Transport Commissioners, in addition to prescribing maximum rates, should also prescribe minimum rates below which the railways could not go. The inference was that with minimum rates prescribed by the Board the railways would be prevented from carrying any freight at a loss in Eastern Canada under the competitive rates.

The Board already has this power under the Railway Act which provides that rates shall be just and reasonable. This means just and reasonable to the railways as well as to the shipping public.

In the opinion of Canadian Pacific, no useful purpose would be served by having specific provision made whereby the Board would prescribe fixed minimum rates below which the railways would not be permitted to go.

It is not practicable to fix a floor for general application throughout Canada or, for that matter, within any one section of the country.

Any attempt to fix minimum rates would presumably have to take into account and perhaps even be based on out-of-pocket costs. Such out-of-pocket costs would be difficult to determine, would vary as between regions and as between different types of traffic. Moreover out-of-pocket costs vary from year to year not only because of changes in unit costs of operation but also because of variations in traffic volume and in the flow of traffic.

Canadian Pacific accepts the general rule that it is inadvisable to fix any rate below out-of-pocket costs and fully realizes that in most cases, the fixing of such a rate will reduce the total net income of the Company and thus result in a tendency

towards an increase in rates in other forms of traffic. It does not, however, believe that in view of the different regional costs and of the differences in circumstances as related to the volume, direction and character of traffic, it is either feasible or practicable to establish a minimum or a definite percentage of maximum rates below which the railways could not go.

Canadian Pacific is prepared to have its Freight Traffic and Accounting Officers confer with the technical staff of the Board of Transport Commissioners to review the general principles to be used in calculating out-of-pocket costs. In the submission of Canadian Pacific such consultation would accomplish all that could be done in any event and it is not, in the view of Canadian Pacific, necessary that there be any legislation to bring this about.

COST OF SERVICE PRINCIPLE

The following submissions of Canadian Pacific are in addition to those set forth at pp. 58 to 63 of Part I of this Submission and are in reply to the submission of British Columbia on this subject.

During the regional hearings of your Commission reference was made by a number of parties to some aspects of the cost of service principle in relation to railway rate making. However, none of them, with the exception of British Columbia, proposed the application of the cost of service principle to the exclusion of the value of service principle in rate making.

The evidence on this subject of Mr. J. E. Brown for British Columbia is to be found beginning at page 2323 of the transcript. The theory he put forward is that as nearly as may be, all railway operating expenses over the long term vary directly with traffic volume. He argues that because that is so and because there being no costs which do not vary with traffic, there can no longer be any justification for fixing railway rates on any other basis than cost of service.

There is some difficulty in reconciling the position of British Columbia on the point. At page 2343 of the transcript the following passage appears:-

> "In conclusion, the Province of British Columbia advocates the application of the principle of pricing all forms of transportation on the basis of cost of service rather than value of service."

However, on page 2341 of the transcript and on page 11 of the final Submission of British Columbia dated September 12, 1949, the position is stated to be that the pricing of transportation should be more nearly on a cost of service basis.

The procedure by which Mr. Brown attempted to support his theory was as follows:-

First - he attempted to adjust railway operating expenses for the period 1923 to 1947 by eliminating the effect of price changes. This was done by adjusting railway operating expenses to the basis of a 1935-1939 constant dollar by the use of a single price index. This index was based upon four series, namely, the prices of labour, of coal, of steel rail and of cross ties.

[illegible]dly - he plotted in graph form the adjusted railway opera[illegible] [illegible]penses against total locomotive miles. He also computed the [illegible]relation between them mathematically and found the equation of [illegible]ationship and the degree of correlation. This was done for [illegible]nadian National over the whole period 1923 to 1947 and for Canadian [illegible]cific over the period 1924 to 1937 inclusive and also for the [illegible]riod 1938 to 1947 inclusive. From this statistical analysis he [illegible]w the following conclusion (transcript, page 2340).-

> "One can only conclude, therefore, that in the year to year results, operating costs tend to fluctuate in close harmony with the amount of work done and that any so-called constant element is of relatively minor importance."

On this premise British Columbia takes the position that as [illegible] various commodities should only reflect the cost differentials of [illegible]ding the service for any particular commodity or class of [illegible]

Canadian Pacific points out that the following errors were involved in the first of the two steps above referred to:-

(a) It was a serious error to restrict the study only to railway operating expenses and not to include interest, profit or [illegible] taxes (see page 12 of the Brief of British Columbia dated Sep[illegible]tember 12, 1949). In Canadian Pacific's view at least interest and probably the return to equity security holders on their investment are in effect costs which must inevitably be incurred, regardless of traffic volume. It could not therefore be argued, even if it were admitted that 100% of operating costs varied with traffic, that the conclusion made by Mr. Brown proves the case for the application of the cost of service principle.

(b) The use of a single price index based upon only four series [illegible] an unduly narrow base on which to make the adjustment which Mr. Brown sought to make and this may in itself produce substantial error. The Interstate Commerce Commission, in making similar studies, used a [illegible] of 24 such indices. The possibility of error in restricting the [illegible]r of series in the index can be seen by reference to the fact [illegible] the indices used by the Interstate Commerce Commission in the [illegible] "Exploration of Rail Cost Finding Procedures and Principles [illegible]ing to the use of Costs" of October, 1948, varied from 110.3 to

181.4, using the base of 1939 equals 100.

(c) Mr. Brown's calculation assumes that the same weighting of the index he used would be applicable to each of the years regarding which he made his adjustment.

As to Mr. Brown's second step, he made the error of using the actual locomotive miles without adjustment. The necessity for adjustment is obvious because locomotives have changed in size and in power and therefore in net output per locomotive mile over the years. In addition, the output per locomotive mile has increased due to changes in loading practices which were forced upon the railways during the war. The carloading order of the Transport Controller compelled all shippers to load freight into cars to the maximum capacity of the cars. The effect of loading practices during war time and post war years can be seen very clearly in Mr. Brown's Charts 1 and 3, because the war years appear sharply above the regression line, demonstrating that the net ton miles produced per locomotive mile are greater than would be expected on the normal relationship. Mr. Brown apparently recognized the difficulty but failed to use an adjusted figure of locomotive miles to compensate for these factors.

Mr. Brown, in reaching the conclusion he did, interprets his calculations as proof that "any so-called constant cost is of relatively minor importance" - see page 2340 of the transcript. This, in the opinion of Canadian Pacific, does not follow. Mr. Brown could have had an equally close fit of his data to a line of relationship in two quite different graphs; that is to say, the same relationship might have been obtained in one graph which would show that there were no costs which were constant and in another where as much as 99% of costs were constant and only 1% variable with traffic.

Mr. Brown apparently failed to appreciate that his own equations, developed from the Canadian Pacific data, if literally interpreted, show that it would be possible to have 12,880,000 locomotive miles without any expense whatever for the period 1924 to 1937. This is easily estimated from the equation in Table 9

which shows that if there were no locomotives miles Canadian Pacific ought to have a net profit of $41,289,000. This can also be seen from projecting the regression line for the period 1924 to 1937 shown on Chart 1 downwards on the Chart to the point of intersection with zero locomotive miles.

By a similar use of Mr. Brown's formula, it can be shown that for the period 1938 to 1947 the Canadian Pacific should have had a profit of $7,284,000 with zero locomotive miles (see Table 9a) and would have had no expense whatever with 2,995,000 locomotive miles. Canadian Pacific therefore is of the view that the equations developed by Mr. Brown can give no useful indication whatever of the extent to which operating costs are constant.

The Interstate Commerce Commission through its Bureau of Accounts and Cost Finding has investigated this very problem (Exploration of Rail Cost Finding Procedures and Principles Relating to the Use of Costs - Washington Mimeo, October, 1948). The conclusion arrived at as a result of this study was that on the average 80 to 90% of operating costs were variable with traffic.

While it may be contended that the extent to which operating costs vary with traffic is dependent upon density, this is only true subject to qualification. Canadian Pacific points out that it would be more correct to say that the extent to which costs vary with traffic, is related to density in terms of capacity but not necessarily in relation to absolute density; that is to say, a railway company operating at peak capacity may have an absolute density of only one-half that of another railway company also operating at peak capacity. This relative density in the sense of capacity is the important consideration in measuring the effect of density on the extent to which costs vary with traffic.

It is therefore probable that the findings of the Interstate Commerce Commission have some value in relation to Canadian railways, although Canadian Pacific would not assert that

they must [illegible]. What it does assert is that they are much more likely to be applicable to Canadian railways than the study put forward by Mr. Brown.

In any case the use of the technique employed by Mr. Brown can only prove that the two series used in his graph will vary together but they offer no proof as to what makes these series vary together. Indeed it may well be that factors not taken into consideration are the cause of this.

Moreover, even if locomotive miles could be so used, and the Interstate Commerce Commission investigations imply that they cannot, they can only be used within the observed limits with the very greatest reserve.

When Mr. Brown was being cross-examined at page 2402 of the transcript it was suggested to him that it is possible to lose sight of the distinction between maintenance costs and maintenance expenditures made by management in maintaining railway property. This distinction is extremely important because Mr. Brown, as well as others who have studied the questiion as to the extent to which costs vary with traffic, tends to look upon the ability of management to control expenditures as an indication that a definite relationship percentagewise exists between operating expenses and revenues despite substantial fluctuations in traffic. Indeed, this was one of the matters put forward by Manitoba and Saskatchewan in the 21% Case (see Exhibit 336-L).

That Mr. Brown recognized the possibility of this error being made, is apparent from his cross-examination. (See page 2402 where Mr. Brown said:- "Well, that is a point".)

Again on page 2404 the following passage appears after some considerable discussion of the result of the deferment of maintenance during depression years:-

> "MR. EVANS: I mean that the quality of service and the maintenance, [illegible] downhill until there is a condition of bankruptcy, an[illegible] there has been in a large number of cases in the United States.

" THE WITNESS: I believe that is possible."

It was then put to him that it was difficult to generalize on the ability of management to control expenses and the answer of the witness at page 2404 was as follows:-

> "All I have to go on is the material I have before me. I would be in no position to know the physical condition of either of the railways, or any of the railways, whether they have been adequately maintained or better than average maintenance or poorer than average maintenance."

Writers apparently recognize the importance of this distinction as witness the following extract from "Economics of Transportation" by D. Philip Locklin, Ph. D. page 160:-

> " Figures showing that railway expenditures vary over a period of time with the volume of traffic must be accepted with some qualification. This is because technical improvements and changes in operating technique affect the figures. So also do changes in wage rates and in prices of materials and supplies. The practice of deferring maintenance in times of depression is a practice, as has already been noted, which gives an appearance of variability to railroad expenses. Even though standards of maintenance are not rigid, it remains true that much of the deferment of maintenance during lean years represents a consumption of capital. Expenditures and costs are not synonymous."

In the submission of Canadian Pacific, it will not do to assume that because management has shown a certain ability to relate its expenditures on maintenance to its revenue, this proves that the cost of railway service as distinct from expenditures on railway service, fluctuate directly with traffic.

The Interstate Commerce Commission has recently found a very substantial degree of deferred maintenance on United States railroads and in the submission of Canadian Pacific the evidence adduced by it in the two rate cases proves that this condition also exists on the Canadian Pacific.

Canadian Pacific therefore submits that upon the foregoing grounds and upon the grounds put forward in Part I of this Submission, the application of the cost of service principle to the exclusion of the value of service principle as proposed by British Columbia is unsound and impracticable.

Among the briefs that have been presented to your Commission containing recommendations in various forms for an amendment of the Railway Act authorizing the Board of Transport Commissioners to award reparations are the following:-

Edmonton Chamber of Commerce Calgary Board of Trade City of Edmonton City of Calgary	At Calgary, Alta.,	June 13, 1949
MacDonalds Consolidated Limited	At Edmonton, Alta.,	June 17, 1949
Transportation Commission of the Maritime Board of Trade	At Halifax, N. S.,	July 14, 1949
Canadian Manufacturers' Association	At Toronto, Ont.	August 4, 1949
The Canadian Industrial Traffic League	At Toronto, Ont.	August 5, 1949

The Canadian Manufacturers' Association suggest in Appendix "A" to its brief, the form which the amendment might take. In essence, so far as they disclose any basis for their proposal, the complaint is that it is a hardship on the shipping public that there is no way in which the Board of Transport Commissioners can give retroactive effect to its finding that a rate complained of is unjust and unreasonable.

Canadian Pacific is opposed to an amendment to the Railway Act such as that proposed by the Canadian Manufacturers' Association or to any amendment authorizing the Board of Transport Commissioners to award reparations.

The theory of reparation (as contained in the Interstate Commerce Act, and which underlies the proposal of the Canadian Manufacturers' Association and others) is that actions for damages against a railway company for breach of any duty imposed upon it by the Railway Act or by an order of the Board of Transport Commissioners may be brought before the Board of Transport Commissioners rather than the Courts.

The Interstate Commerce Act contains in Section 8 a declaration of the liability of carriers for breaches of the Act and in Section 9 provides the procedure by which the complainant may make a complaint to the Commission or may bring suit in the

courts for the recovery of damages for breach of the obligation of the carries under the Act. Section 13 outlines the procedure before the Interstate Commerce Commission in such cases. Section 14 authorized the Commission to make an award of damages and for the enforcement of such orders by the courts and other related matters including a two-year period of limitation.

It is to be noted that the power to award reparations extends to all matters arising from alleged breaches of the Act and this, therefore, would embrace matters other than reparation in regard to rates found to be unjust and unreasonable.

That this is also the intention of the Canadian Manufacturers' Association is clear from the amendment proposed by that Association in Appendix "A" to its Brief. On the other hand, the material contained in the briefs would indicate that the chief complaint giving rise to the proposal is based upon the possibility that rates may be found to be unjust and unreasonable and that shippers in such cases are deprived of their remedy in respect of so-called excessive charges in the past. It is important to bear in mind that the remedy proposed therefore, is a remedy which goes far beyond the matter complained of in that it proposes to give to the Board of Transport Commissioners jurisdiction with regard to all claims for damages in respect of breaches of duty by a railway company under the Act. In this connection your Commission will have before it Section 385 of the Railway Act which specifically imposes upon railway companies a liability for damages for breach of the Railway Act, the Special Act, orders, regulations or directions of the Governor in Council or of the Minister or of the Board made under the Act. The remedy under that section must now be sought in the courts and the proposal therefore seeks either a transfer of jurisidction from the courts to the Board or an option by a complainant to bring his action in the courts or to bring his claim before the Board.

Canadian Pacific believes that it is undesirable that the jurisdiction of the courts should give way to this sort of jurisdiction in the Board of Transport Commissioners and submits that

no case has been made out for any such change.

The matter of reparations in respect of rates found to be unjust and unreasonable is, however, on a somewhat different footing in some respects. Only the Board can determine what are just and reasonable rates and it would be necessary, if a remedy is to be given, that the Board should first have made a determination upon complaint as to the justness and reasonableness of the rate under review.

However, Canadian Pacific does not believe that the remedy of reparation is either desirable or proper in this country. It submits that the case for reparation is not advanced by reference to the practice in the United States because, among other things, the system of regulation of rates under the Interstate Commerce Act is fundamentally different from that contained in the Railway Act.

In order to understand the basic principle of reparations it must be borne in mind that nowhere in the Interstate Commerce Act or in the practice of the United States railroad companies before the Commission is there any legal requirement that the Interstate Commerce Commission shall first approve any of the rates filed by the railroads. Under that Act (Section 1(5)(a)) all rates are required to be just and reasonable. Under Section 6 of the Act provision is made that the carriers subject to the Act shall file tariffs and under Sub-section 3 no changes shall be made in the rates so filed except after thirty days notice to the Commission.

There is no provision in the Interstate Commerce Act which is the equivalent of Section 330 of the Railway Act. Under that Section it is provided that "every standard freight tariff shall be filed with the Board and shall be subject to the approval of the Board". By subsection 2, upon the tariff being filed and approved by the Board, it shall be published and by subsection 4 until such tariff has been filed with and approved by the Board "no toll shall

be charged by the Company". By subsection 5 no standard freight tariff is to be amended or supplemented except with the approval of the Board.

The standard tariff governed by Section 330 of the Railway Act is a tariff of maximum tolls and having been approved by the Board, such tolls are just and reasonable in law. Under the Interstate Commerce Act procedure, however, there being no requirement that any of the rates filed with the Commission shall first be approved by the Commission, the rates so filed may or may not be just and reasonable rates. It is only when on complaint the Commission finds a rate so filed to be unjust and unreasonable that the question of reparation can arise.

The Supreme Court of the United States have held that no reparations can properly be awarded by the Interstate Commerce Commission in any case in which the Commission itself had previously fixed upon a rate as just and reasonable although in a subsequent proceeding the Commission might declare a lower rate to be just and reasonable for the future. (See Arizona Grocery Co. v. Atcheson, Topeka & Sante Fe Ry. Co. 284 U. S. 370: 52 Supreme Court 183: 76 Lawyers Edition 348 (1932))

A reading of this decision makes it entirely clear that the right to have reparations awarded does not exist if the regulatory tribunal had previously approved the rate complained of even though it might afterwards change its mind and fix a lower rate for the future. The following passage at p. 354 of 76 Lawyers Edition is important:-

> "But it is suggested that the mere setting of limits by Commission order leaves the carrier free to name any rate within those limits, and, as at common law, it must at its peril publish a reasonable rate within the boundaries set by the order; that as it has the initiative it must take the burden, notwithstanding the Commission's order, of maintaining the rate at a reasonable level, and will be answerable in damages if it fails so to do. This argument overlooks the fact that in declaring a maximum rate the Commission is exercising a delegated power legislative in character; that it may act only within the scope of the delegation: that its authority is to fix a maximum or minimum <u>reasonable</u> rate; for it is precluded by the statute

"from fixing one which is unreasonable, which by the statute is declared unlawful. If it were avowedly to attempt to set an unreasonably high maximum its order would be a nullity."

The foregoing quotation from the Judgment makes it clear that if the Commission were acting under the equivalent of Section 330 of the Railway Act its approval of the standard tariff would be taken to be the equivalent of a finding of a just and reasonable rate, as indeed it is, and that in such circumstances reparations would not be awarded.

The theory of reparations is inconsistent with the theory of the Railway Act as it now stands. There can be no doubt that in enacting that Act, Parliament was fully aware of the practice of awarding reparations which had been in existence in the United States since 1887 and that, in adopting a somewhat different theory, it rejected the remedy of reparations as undesirable or unnecessary or as inconsistent with the scheme of the Railway Act.

In Stephen-Adamson Manufacturing Company v. Canadian National Railways, 35 C.R.C. 362 at 363 the Board itself has drawn attention to the distinction between the position in Canada and that in the United States in the following language:-

"In the United States, under the Interstate Commerce Commission, the jurisdiction is different. In the first instance there is not the approval of the standard rate required, as there is here. All their rates go into force on notice. Those rates are liable to be attacked and to be defended; but there is a special jurisdiction in regard to refund there, which differs from the jurisdiction given to this Board. In the days of Judge Killam he laid down the law very clearly upon broad foundations, quite early in the history of the Board. He pointed out in one case, I think it was the application of the Eddy Match Company, that the Board has no power to order a refund. There are various other cases of the same kind, but that was laid down, and that jurisdiction has been recognized."

It is also to be noted that the Interstate Commerce Commission does not apply the same principles in a case involving discrimination. The reason for this is that in a discrimination case the higher of the two rates involved may well have been reasonable. The discrimination, however, exists by virtue of some other shipper obtaining a lower rate. In this country the Board

of Transport Commissioners requires that the discrimination be removed. This may be done by raising the lower rate as well as by lowering the higher rate. It does not follow, however, that the higher rate is unjust or unreasonable in itself and this principle has been recognized by the Commission and by the United States Supreme Court. (see I.C.C. v. United States ex rel Campbell, 289 U. S. 385 53 Supreme Court 607, 77 Lawyers Edition 1273).

In that case it was pointed out at p. 1276 of 77 Lawyers Edition as follows:-

> "Overcharge and discrimination have very different consequences and must be kept distinct in thought. When the rate exacted of a shipper is excessive or unreasonable in and of itself, irrespective of the rate exacted of competitors, there may be recovery of the overcharge without other evidence of loss . . . But a different measure of recovery is applicable 'where a party that has paid only the reasonable rate sues upon a discrimination because some other has paid less.'"

In that case the Court held that the measure of damages is not the difference between one rate and the other. The Interstate Commerce Commission has followed this and there are a large number of cases in which no reparation was awarded because of the inability of the complainant to prove that he was damaged.

The foregoing difference between the consequences of reparations claims based on discrimination and those based upon overcharges (unreasonably high rates) should be borne in mind in dealing with the submission made by the Transportation Commission of the Maritime Board of Trade and of the Industrial Traffic League, neither of which distinguishes between rates which are discriminatory and rates which are in themselves unjust or unreasonable.

Under the practice in the United States the Interstate Commerce Commission does not award reparation in cases involving a general adjustment of rates (48 I.C.C. 378 at p. 468 - 87 I.C.C. 468) or in discrimination cases unless in the latter case the rate in itself is found to be unreasonable - (see 253 I.C.C. 639).

The following cases may be of assistance to your Commission in determining the extent to which the cases listed in the Brief of the Canadian Manufacturers' Association contain cases in which any real hardship has been experienced through the lack of power in the Board to award reparations.

In 259 I.C.C. 29 at p. 30 it was held that "except where unusual circumstances are present, reparation does not follow from a reduction in a classification rating ordered by the Commission".

In 270 I.C. C. 47 at p. 49, after reviewing the circumstances under which damages might be proved as a result of undue preference, the Commission states "but these consequences are not a necessary inference from undue prejudice without proof; and the damage must be proved, not presumed."

In Fourth Section cases, that is to say, the application of competitive rates to intermediate points, the Interstate Commerce Commission, in establishing a previously approved competitive rate as maximum at an intermediate point, did not award reparations. (See 251 I.C.C. 487).

Rates found unreasonable for the future are not necessarily a proper standard for the past. (See 238 I.C.C. 61; 132 I.C.C. 477; 146 I.C.C. 49).

An illustration of a case in which undue prejudice and discrimination were found to exist but in which reparations were denied is to be found in (1947) 268 I.C.C. 220.

The brief of the Canadian Manufacturers' Association contains a list of decisions of the Board which affirm the Board's lack of jurisdiction to award reparations. These cases unquestionably do hold that the Board has no such power but they afford interesting examples of cases where even if the Board did have the necessary authority, there is no probability that the shipper would have been in a better position.

For example, the case of Dominion Concrete Co. v. C.P.R., 6 C.R.C. 514 was a case involving a claim concerning

the reduction of rates on concrete blocks which were stated to be excessive having regard to the rate on bricks. In a somewhat similar case the I.C.C. refused to award reparation although they found that the allowable differential between the rates on malt and barley had been exceeded. (See Electric Malting v. A.T. & S.F. Ry. Co., 23 I.C.C. 378 at p. 381).

In at least four of the cases listed, the Board was asked to find what the legal toll was and refunds, although not ordered, were authorized. In these cases the shipper was not hurt. In at least four other cases there was no finding that the rate complained of was unreasonable. In one or two other cases an erroneous rate was quoted by a railway employee. In none of these cases is it likely that the I.C.C. would have awarded reparation. In another case, that of United Grain Growers vs C.N.R. 26 C.R.C. 26, the claim was for loss and damage for negligence and this was rejected by the Board on the ground that this was a matter for the courts. Here again the shipper was not without his remedy although he chose the wrong forum. In others the claims were disposed of by the Board some four years after the shipments moved. (See XV J.O.R. & R. 249). The period of limitation proposed to your Commission and which is in fact fixed by the Interstate Commerce Act is two years.

In the last case listed in XVI J.O.R. & R. 135 the law on the subject as regards the power of the Board is reviewed but it is interesting to note in most cases where the rates in this case were under review, the applicant failed on the merits to establish unreasonableness. In the case of one or two shipments, the Board found what the legal rate was and although it did not direct a refund it would result in a refund being made.

Under the law in this country if by mistake a shipper is charged more than the legal rate, (as, for example, when more than one tariff is applicable to the same traffic) the railways make refunds promptly and voluntarily. If they did not, the refund would be ordered in an action in the Courts.

If a railway company is in breach of any of its obligations under the Railway Act or under any order of the Board, it is liable in damages by virtue of Section 385 of the Railway Act. In this case the action must be brought in the courts and Canadian Pacific submits that such a remedy is adequate.

There remain only those few cases in which the Board, having fixed by its approval under Section 330 the maximum reasonable rates, may decide at some future time that a lower rate is just and reasonable. In these cases the railways are entitled to rely upon the approval of the Standard rates under Section 330 as a finding that until further order of the Board, such rates may legally be charged and collected. It would be unreasonable to subject them to the uncertainty that the Board may change its mind and by its order require the making of a rebate in respect of charges made in the past.

Reparations are in essence legalized rebates. In the United States large shippers can use the right to reparation in a way in which that right was never intended to be exercised. For example, if a rate is negotiated by agreement between the shipper and the railroads and is not put into effect quickly enough to be applicable to the first movement of traffic, it is possible for a large shipper to put pressure upon the railroads to have them apply to the Interstate Commerce Commission for permission to refund the difference between the rate in effect prior to reduction and the reduced rate. These refunds can be made with the permission of the Interstate Commerce Commission on the joint application of the railroads involved, who must, of course, on such application, take the position that the prior rate was unreasonably high. If a small shipper were involved or if the competition for the shipper's traffic were less active, the railroads might resist the application for reparation and in many cases it would be impossible for the shipper to demonstrate that the rate prior to the decrease was in fact unreasonable. Thus, the larger shipper may succeed in obtaining reparation where a

smaller shipper would fail to do so. Cases of this kind are quite as objectionable as the practice of making rebates which existed in Canada prior to the passing of the present Railway Act in 1903. Canadian Pacific [illegible] in the United States or that it would become so in Canada. What [illegible] competitive situations might prove difficult to resist when large shippers are involved.

The experience in both Canada and the United States, before regulation of freight rates became effective, and when rebates could be made, was that rebates were obtained almost exclusively by the large shippers, whose volume of traffic enabled them to exert pressure on the railways. The small shippers, who were not in a position to enforce demands for rebates, had to pay higher freight charges than their large competitors.

It is submitted that the remedy of reparations is a remedy far too drastic to be warranted by the showing of those who propose it. The fantastic extent to which demands for reparation can be carried is shown by applications recently filed with the Interstate Commerce Commission on behalf of the United States Government, in which reparation estimated to amount to between two and three billion dollars is asked for on traffic that moved during World War II. These applications are being opposed by many shippers' organizations in the United States, who contend that the granting of such reparation would bankrupt many of their railroads, would result in materially increased freight rates, and would make it impossible for the railways to provide the facilities necessary to meet the transportation needs of their country.

The witness Brown, appearing for the Canadian Manufacturers' Association, was aware of the fact that reparation cases now pending before the Interstate Commerce Commission on behalf of the United States Government involve sums of money sufficient to bankrupt the major carriers. (See p. 5307 of the transcript).

One further matter which distinguishes the United States conditions from those obtaining in Canada is the fact that there are in the United States numerous connecting railroads in competition with one another. These railroads tend, by combining together, to create a large number of alternative routings. Under the law in the United States, the rate applicable via the various routings is determined by a rule which prescribes that the rate may not exceed that obtaining by the shortest route over which the traffic can be moved without a transfer of lading. It therefore follows that there may well be rates published over many different routes and that the railroads in publishing such rates may overlook the lowest combinations of rates available to the shipper. A large shipper with an active traffic organization may, in such circumstances, in many cases discover lower combinations of rates by other routes. Having discovered such a lower combination only after considerable traffic has moved, a shipper under the practice in the United States becomes entitled to have reparation if he can establish that a lower applicable combination has in fact been found.

No such condition exists in Canada. In relatively few instances are more than two railway companies involved in a through movement and the alternative routings are in many cases not available. Moreover, there is no such rule in Canada as that referred to by which the lowest combination over any route is to prevail although the suggestion has been made to your Commission that such a rule ought to be adopted. The position on this question will be discussed in another section of this submission.

If reparation is authorized it should work both ways. For example, if an increased rate is suspended and subsequently found to be reasonable, the railways should be authorized to collect, and shippers required to pay, charges on all shipments that moved during the period of suspension on the basis of the increased rate which the Board finds to be reasonable.

The submission of Canadian Pacific is therefore

that the cases listed by the Canadian Manufacturers' Association do not on their merits disclose necessarily cases in which the I.C.C. would have awarded reparations and are therefore not the measure of the need for the change proposed in the law in Canada.

The members of the Canadian Manufacturers' Association and of the Canadian Industrial Traffic League who propose reparations as well as other industrial and commercial companies, are at present free to fix the prices at which they will sell their goods. They would scarcely agree that if they reduce a price today, or if some price regulation became effective forcing a reduction in price, they should have an obligation to make an adjustment with purchasers who may have bought such goods at the higher price.

In the circumstances Canadian Pacific submits that the remedy of reparations is neither desirable nor necessary in Canada.

In practice, legislation giving the right to reparations is open to many abuses. For example, certain Freight Claim Bureaux undertake the checking of freight expense bills and the bringing of claims for reparations in consideration of a percentage of the amount recovered from the railways. All the unsavoury aspects of champerty arrangements are implicit in these activities and should not be encouraged at the expense of the railways and the users of their services who must in the final analysis pay the overall costs of the railways.

THE LONG AND SHORT HAUL RULE

Part I of this submission contains a statement of the position of Canadian Pacific in relation to this question. However, in view of the extensive submission made by the Province of Alberta on this subject the following additional submissions are made by Canadian Pacific.

Alberta's brief consists of 151 pages, supported by a schedule containing rate comparisons involving 119 additional pages. As indicated in Part I of this submission, Alberta renews before your Commission the complaint it has made over the past many years and which was more particularly dealt with in the general freight rates investigation. Reference is again made to the judgment of the Chief Commissioner in 33 C.R.C. 127 and to the passage at page 135 of that judgment. The quotation referred to appears on pages 91 and 92 of Part I of this submission.

At the outset, Canadian Pacific points out that the submissions made by Alberta in its brief can avail nothing unless Alberta can establish that the rates to Alberta points are in themselves unjust and unreasonable. That is to say, whether the rule adopted in the United States is applied in Canada or not, the right of the intermediate point to have the benefit of the competitive rate must in the last analysis depend upon the reasonableness of the existing rates to the intermediate point. The only real difference between what Alberta advocates and what is now the law in Canada with certain minor exceptions to which attention will be drawn, is that a prior application must be made to the Interstate Commerce Commission for what is called fourth section relief. In the United States, the rule is that unless this relief be given, the competitive rates must be applied to the intermediate point. This does not mean that the competitive rate must inevitably be applied to the intermediate point. It means that an application must be made by the railways for relief, or else that rule will apply.

Before dealing directly with the matter, the attention of your Commission is drawn to the schedule of rates filed by Alberta in support of its brief. First, the rates included in the schedule do not reflect the increases made in competitive rates on 15th September, 1948 and subsequent changes in these rates. (See pp. 90-93 inclusive of Part I of this submission).

Secondly, the reduction in rates brought about by the elimination of the Mountain Differential pursuant to Order of the Board of 23rd April, 1949 are not reflected in the schedule.

The importance of this is that the position with regard to the difference between the rates at the intermediate points and the competitive rates which are the subject of Alberta's complaint, has materially changed. The number of cases in which the rate to Vancouver is lower than the rate to Calgary, for example, has been substantially reduced. Moreover, there are not today any instances in which the sum of the rates from Eastern Canada to Vancouver and from Vancouver to Calgary is lower than the rate from Eastern Canada to Calgary.

At p. 111 of Alberta's brief, the following statement is made:-

> "We submit that this Commission should recommend that long-and-short-haul discrimination in Canada be prohibited subject to the provision that the Board upon formal application of the carrier seeking to practice long-and-short-haul discrimination, after hearing may allow such discrimination provided that the carrier satisfies the Board that:
>
> 1. There is active and compelling competition at the competitive point which is beyond the control of the applicant carrier and such competition is absent at the intermediate point.
>
> 2. The rate which is proposed for the competitive point more than covers the additional expense incurred by the traffic to which it applies.
>
> 3. The rate to the intermediate point is just and reasonable.
>
> 4. The rate to the competitive point is not lower than necessary to meet the competition .

5. The carrier can show a reasonable expectation of improved net earnings as a result of charging the competitive rate."

It is important to examine the five principles which Alberta submits should be applied in measuring the propriety of the transcontinental competitive rates.

As to the first of these, that there should be active and compelling competition at the competitive point, Canadian Pacific points out that Alberta has overlooked the fact that potential, as well as active competition is recognized by the Interstate Commerce Commission (See 218 I.C.C. 106 at p. 110 and 208 I.C.C. 327). Apart from that, the principle applied in Canada in measuring the propriety of competitive rates is identical with that suggested by Alberta.

As to the second principle, that the competitive rate should more than cover the additional expense incurred by the traffic to which it applies, this also is a principle not only recognized by the railways, but which must inevitably be recognized by the Board of Transport Commissioners in determining whether competitive rates are compensatory or are unreasonably low.

As to the third principle, whether the rate to the intermediate point is just and reasonable, this is the corner-stone of the Judgment in the general freight rates investigation and can be taken to be the law in Canada.

As to the fourth principle, it is implicit in the Railway Act that the competitive rate must not be lower than is necessary to meet the competition. There can be no doubt that on complaint, the Board under its existing powers, could disallow any rate which did not measure up to that yardstick.

As to the fifth principle advocated by Alberta, that the carrier must show reasonable expectation of improved net earnings, this matter is also a principle recognized both by the railways and by the Board in Canada. In fact, it is really

a duplication of the second principle, in that unless more than out-of-pocket expenses are obtained, there could be no expectation of improved net earnings.

The foregoing make it clear that apart from recognition of potention competition, which Canadian Pacific believes must have recognition, the principles laid down by Alberta do not differ from the principles recognized as proper under the present law in Canada. It follows that the only real difference between Alberta's proposal and those recognized in Canada is as to whether or not it is proper or desirable that there should first be an application to the Board for relief against applying the competitive rate to the intermediate point, or whether the matter be left open to be dealt with only on complaint.

While it may be argued by Alberta that there is a very great difference in this respect between the law in Canada and the law in the United States, the following points must be considered. First, Alberta has complained against the failure to apply the transcontinental competitive rates to Alberta points for many years and the Board has rejected such complaints on the ground that Alberta has failed to show that the existing rates to the intermediate points are unjust and unreasonable. It follows that Alberta would have no assurance of any greater relief merely because the law should be changed to require the railways first to go to the Board. Alberta has been to the Board and the Board has adjudicated upon its complaint. Secondly, if it were necessary first to go to the Board and establish that the competitive rates are compensatory Alberta could not automatically obtain the benefit of those rates at the intermediate points where the competition did not exist. It follows that it is important to determine whether there is any prima facie likelihood of the present transcontinental rates being at a level below that

which is compensatory. In Part I of this submission and in the Appendix to Part I examples of eastbound and westbound transcontinental competitive rates are shown. Further examples of the car mile and ton mile earnings on commodities specifically mentioned in Alberta's brief (See figures 1 to 12 on pp. 24 - 35 of that brief) are contained in Table 1 attached to this section of Part II of this submission. With two exceptions, the car mile earnings on these commodities at the existing transcontinental competitive rates are in excess of the system average car mile revenue of Canadian Pacific for the year 1948, which was 35 cents per car mile. Indeed the car mile earnings shown on Table I range as high as 51.7 cents per car mile. Table 1 also shows that there are only two instances in which the ton mile earnings are below the system average for 1948 of 1.13¢ per ton mile. Both these examples are shipments of canned goods in which the car mile earnings are 34.1¢ and 36.4¢ respectively.

When it is borne in mind that these are very long hauls, Canadian Pacific could have justified lower car mile and ton mile earnings than the system average, if there was a necessity to do so and still have had rates which are compensatory.

Canadian Pacific draws to the attention of your Commission the references to decisions of the Interstate Commerce Commission appearing in Alberta's brief commencing at p. 143 and continuing to p. 146, in which it would appear that that Commission has held to be compensatory, rates yielding much lower rates per car mile and per ton mile than the rates on the commodities listed in the Table above referred to. As pointed out at p. 94 of Part I of this submission, the differences between rates found compensatory by the Interstate Commerce Commission in the years in which those findings were made, and the existing Canadian rates are sufficiently great to warrant the conclusion that even with the change in operating costs which has occurred over the past few years, the

present transcontinental rates referred to in the Table would have been held to be compensatory by the Interstate Commerce Commission. That this is so can be seen from the most recent case available. This was an application for fourth section relief, Case No. 22535, Interstate Commerce Commission Supplemental fourth section Order No. 15696 of April 16, 1947 in which the Commission granted relief with the qualification that it was not to apply to rates over routes which would yield less than 18¢ per car mile.

It follows that even if it were necessary for the railways to go to the Board of Transport Commissioners in advance of establishing these rates, the regulation proposed by Alberta would probably result in no different level of transcontinental rates than exists today. This is, of course, subject to the single exception in that Alberta does not recognize the validity of potential competition.

It follows also that as stated in the opening part of this section of the submission of Canadian Pacific, the real question to be determined is whether there is anything to be gained by requiring the railways first to make application to the Board before establishing these rates.

If Alberta's proposal is given effect to, the Board would merely call upon the railways to satisfy it that the competition required the rate to be established; that the rates were compensatory; that the competition did not exist at the intermediate point; and possibly that the existing rates at the intermediate point were in themselves just and reasonable.

On this, Canadian Pacific makes the following submissions:

First, the adoption of such legislation for transcontinental competitive rates would inevitably mean the adoption of the same principles for all competitive rates throughout Canada. The

importance of this is apparent when one considers the large number of these competitive rates and the delay and expense which would be entailed if each of them required prior approval of the Board of Transport Commissioners. It may be pointed out here that when the law came into effect in the United States there were more than five thousand applications for fourth section relief within the first six months after the law took effect. See report on Interstate Commerce Commission Activities 1887-1937 p. 97.

Secondly, the delay involved in first having to make application to the Board for so-called fourth section relief, would deprive the railways of the right to quote rates in advance and of the right to meet promptly the competition of other carriers. In many instances railways today are required to act quickly if their revenue interests are to be fully protected. If the traffic is once lost to the competing carrier, it may well be lost for some time, or even permanently.

Thirdly, there is much short line competition between railways and the rule would have to be applied to all cases where railways endeavour to establish rates to meet such competition. This would add greatly to the delay and to the number of cases which would be brought before the Board. Moreover, the necessity for making such applications, even though they should ultimately be granted in every case, would prevent competing railways from having their rates at all times on a parity with one another. The only effect of this would be to take away revenue from a competing railway, but it would not prevent the shipper between origin and destination receiving the benefit of a lower rate, which would not be available to the intermediate point on the line of the competing carrier. Similar results would be obtained in connection with competitive rates to meet market competition such as rates to permit Canadian producers to meet the competition from United States, or other foreign countries, where the railways desired to establish

rates to enable the Canadian producers to meet such competition.

Fourthly, the provisions of Section 314 of the Railway Act and other sections of that Act are in the opinion of Canadian Pacific greatly to be preferred to the provisions of Section 4 of the Interstate Commerce Act. The shipping public have complete protection, while at the same time, the railways have a maximum freedom in the ratemaking process.

Fifthly, Canadian Pacific points out that there would be a strong probability that the matter would not end at making the competitive rate applicable as maximum to the intermediate point but would involve demands for proportionate reductions at other intermediate points of lesser distance. For example, if the competitive rate were $1.00 and the normal rate to, say, Calgary were $1.50 and the normal rate to Regina were also $1.00, the probability is that Regina would demand a proportionate reduction in its rate based on its distance relationship with Calgary.

In summary it may be said that the procedure proposed by Alberta is inconsistent with the fifth principle which it enunciates, namely, that the carrier must show a reasonable expectation of improved net earnings to justify the competitive rate. This is because, if the railways are not to be permitted to meet competition promptly, they will be deprived of revenue at least during the period during which their applications are under consideration by the Board. No doubt Alberta and many other interested parties throughout Canada would require to be notified and it may be expected that a delay of at least a month or so would be the minimum experienced. It would be difficult in these circumstances to see the advantage to be gained if the railways had to forego large sums of revenue for such a period. In many cases traffic might be lost inevitably and there would in the result,

be no benefit to the shippers or consignees at intermediate points.

It must be recognized that in most cases, the relief would be granted against the application of the competitive rate to the intermediate point. That has been the experience in the United States and the delay and expense attendant upon this procedure would therefore be of no benefit to the intermediate point. Moreover, while the intermediate point might in rare cases obtain the benefit from the application of the competitive rate, the railways would have to consider whether the application of that rate to the intermediate point would seriously affect their revenue position. If they were of that view they could not justify establishing the competitive rate at all. On the other hand the competitive rate might have to be on a higher basis than was required to meet the competition.

If the railways decided not to establish the competitive rate, the intermediate point would have no benefit but would, in fact, suffer. This is because, assuming the proposed competitive rate to be compensatory, the failure to establish it would mean a net loss in earnings and this loss would be reflected in the whole level of rates including the rates to the intermediate point.

It may be pointed out in conclusion that the Province of Manitoba does not support the position of Alberta. It may also be concluded, although there are no submissions on the point, that British Columbia would be strongly opposed to Alberta's proposal.

ANALYSIS OF CAR MILE AND TON MILE EARNINGS ON COMMODITIES MENTIONED IN THE EXAMPLES SHOWN IN FIGURES 1 TO 12 PAGES 24 TO 35 OF ALBERTA'S SUBMISSION ON THE LONG AND SHORT HAUL RULE.

T O V A N C O U V E R, B. C.

Figure Number	Commodity	From		Miles	Rate $	Minimum Carload Weight Lbs.	Average Loading Weight Lbs.	EARNINGS Per Car $	Per Car Mile ¢	Per Ton Mile ¢
[illegible]	Vehicle Parts, Self-propelling	[illegible],	Ont.	2729	2.74	[illegible]	49,312	1,351.15	49.5	2.00
[illegible]	[illegible]	Montreal,	Que.	2878	[illegible]	30,000	35,891	1,033.66	35.9	2.00
		[illegible],	[illegible]	[illegible]	[illegible]	30,000	[illegible]	1,384.42	51.7	2.15
3	Dry Goods, Cotton Piece	Montreal,	Que.	[illegible]	[illegible]	[illegible]	[illegible]	1,276.73	44.4	2.30
4	Axes	Montreal,	Que.	2878	[illegible]	36,000	37,190	1,019.00	35.4	1.90
		Toronto,	Ont.	2695	2.74	36,000	37,190	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible],	[illegible]	2878	2.88	30,000	35,891	1,033.66	35.9	2.00
		[illegible],	[illegible]	2695	2.88	30,000	48,070	1,384.42	51.7	2.15
[illegible]	Barbed Wire	[illegible],	[illegible]	2878	2.74	30,000	37,165	1,018.32	35.4	1.90
		Windsor,	Ont.	2913	[illegible]	30,000	34,372	941.79	32.3	1.88
[illegible]	Structural Iron and Steel, Fabricated or unfabricated	Montreal,	Que.	[illegible]	[illegible]	30,000	[illegible]	1,117.37	38.8	1.90
		Hamilton,	Ont.	[illegible]	2.74	30,000	[illegible]	1,180.67	43.2	2.01
[illegible]	Paper	Ottawa,	Ont.	2759	2.48	40,000	44,133	1,094.50	39.7	1.80
		[illegible],	[illegible]	[illegible]	2.48	40,000	45,979	[illegible]	[illegible]	[illegible]
[illegible]	Canned Goods	[illegible],	[illegible]	2878	1.40	[illegible]	[illegible]	980.00	34.1	.97
		Toronto,	Ont.	2695	1.40	70,000	[illegible]	980.00	36.4	1.04
10	Red or White Lead for [illegible]	[illegible],	[illegible]	2878	1.85	[illegible]	[illegible]	1,301.35	45.2	1.29
11	[illegible]	[illegible],	[illegible]	2878	[illegible]	30,000	[illegible]	1,019.00	35.4	1.90
		Toronto,	Ont.	2695	[illegible]	30,000	37,190	1,019.00	37.8	2.03
12	Ammonia, Aqua	Montreal,	Que.	[illegible]	2.89	40,000	No Record	1,156.00	40.2	2.01
		[illegible],	[illegible]	2695	2.89	[illegible]	No Record	[illegible]	[illegible]	[illegible]

[illegible]

INDUSTRIAL LOCATION AND THE RATE STRUCTURE

The only Province making detailed submissions on this subject is the Province of Alberta. The position taken is that as between rates on raw materials and finished products, rates should either be purely "passive" or should encourage location of processing plants near the point of production of the raw material. Alberta also recommends that when processors or manufacturers feel that the relationship between the rates on the raw material and the finished product adversely affect them, they should be able to apply to the Board for relief. The Board, it is suggested, should have the necessary power to revise rates to carry out what it considered to be the proper policy of encouraging industrial location.

Alberta refers in this volume of its brief to examples of the rates on raw and processed commodities. These include the movement of livestock and the products of packing plants; the movement of crude oil and the products of the refining process; the movement of sugar beets and of the refined sugar; and the movement of wheat and of wheat flour.

Canadian Pacific interprets Alberta's position to be that the rates on processed materials should be so adjusted in relation to the rates on raw materials as to permit the location of the processing plant as near as may be to the source of production of the raw material or alternatively that the rate should be so arranged as to encourage that result. Moreover, as Canadian Pacific interprets the submission, the desire of Alberta is to enable the Board to do a considerable amount of economic planning in manipulating the rate structure.

As to this argument, Canadian Pacific submits that it is a generally recognized principle that rates on raw materials should be lower than rates on manufactured products. This is fundamental to an acceptance of the value of service principle in rate making. Quite obviously the raw materials tend to have lower value and

therefore a lesser ability to pay transportation costs than have the finished products. This principle has long been recognized by the Board of Transport Commissioners, by the Interstate Commerce Commission and by writers on the subject. Alberta in effect desires to change this in the hope that by providing additional powers to the Board with suitable directions to it, the location of industry in Alberta can be encouraged and increased. One assumes that this can be done in one of two ways. That is to say, either raising the rates on raw materials or reducing the rates on manufactured products.

It may be said here that the rates on low grade commodities in Canada are generally so low that it would be disastrous to the revenues of the railways, to reduce the rates on finished products to anything nearly approaching parity with the rates on raw materials. It follows as a practical matter, that the alternative would be to raise the rates on raw materials. If this were done, it would be difficult to make the changes in such a way that serious disturbance to existing industry could be avoided. In this connection Canadian Pacific submits that Alberta's analysis of the question seriously underrates the importance to manufacturing plants of a location near the concentrated markets. The pressure on industry to locate near these markets is not only due to the need for saving transportation costs on the finished product, but also to other costs of distribution, as well as to the need for having the product reach the market as quickly as possible after manufacture, as for example, fresh meat. While there are always exceptions to this principle, it is something which must be borne in mind and it cannot be said that transportation cost alone is the influencing factor.

The laid down cost of the manufactured product will probably be lower if the factory is close to the area of the greatest concentration of its market.

The fact that wages and interest costs are approximately the same in Alberta as elsewhere in the country, and that electric power costs in Edmonton are below those in Toronto, indicates that the

concentration of industry in the Toronto area is brought about by the attraction of the concentrated market. It may also show that since wage rates in Alberta seem generally to be at or above the national level, the attraction to industry of a location in Alberta as compared with a position in Eastern Canada nearer to their principal markets, would not be sufficiently strong. Canadian Pacific points out that the forces operating to produce the result of which Alberta complains, are complex and that short of economic planning of the broadest kind, it would be difficult, if not impossible, to bring about the result desired by Alberta. The extent to which this plan would have to go if it were limited to railway rates might have serious consequence upon the revenues of the railways and would most certainly have serious consequences on existing industry.

With regard to Alberta's example of the rates on livestock as compared with the rates on dressed meats and packing house products, Canadian Pacific makes the following submissions:-

It believes that the rates on livestock are low and should be lower than the rates on packing house products. It would, in the opinion of Canadian Pacific, be impossible to raise the rates on livestock to a sufficiently high level to bridge the difference without inhibiting the movement of livestock to existing plants.

For the information of the Commission, two tables will be found at the end of this section of Part II. Table 1 deals with movements of cattle and hogs while table 2 deals with movements of dressed meats and packing house products. The rates per car mile and per ton mile are also shown on these tables.

Attention is directed to the fact that the average loading of livestock tends to be considerably lower than the average loading on dressed meats and packing house products, and that the car mile earnings on livestock appear to be lower than might be considered compensatory. On the other hand, the rates on dressed meats tend to be on the average somewhat lower than the system average of car mile

earnings. The car mile earnings on packing house products, on the other hand, are somewhat higher than the system average of 35¢ per car mile.

As regards ton mile earnings, such earnings on livestock tend to be slightly higher than the system average but are somewhat lower than the ton mile earnings on dressed meats and packing house products.

Canadian Pacific points out that if Alberta's suggestion is accepted, the rates on livestock would have to be increased. Whether Alberta desires to take this position is not apparent from its brief.

As to the example in the Alberta brief of the movement of sugar beets and refined sugar, Canadian Pacific points out that Alberta has little ground for complaint in this regard since all of the sugar beets produced in Alberta are processed within the Province.

With regard to the relationship between the rates on crude oil and the rates on the products of the refining process, a somewhat similar position exists. There could be no justification for failure to recognize the difference in value between the raw material and the finished products. Here again Alberta does not suggest what remedy would be applied, that is to say, whether the rates on crude oil should be raised or the rates on finished products should be lowered. Complaint is also made against the making of agreed charges on refinery products. This complaint has also been made by Saskatchewan. It follows therefore that Alberta must be taken to be advocating an increase in the rates on crude oil since the low level of the rates on the finished products are already complained about.

With regard to its complaint about the reasons advanced by the railways for the making of the agreed charge on refinery products from Fort William to Saskatchewan points, Canadian Pacific

submits that Alberta's complaint really points up the difficulty of giving effect to its contentions. The agreed charge on refinery products from Fort William is complained of on the ground that it provided increased competition for Alberta refineries. It cannot be expected that Alberta's proposal would not be opposed by industry elsewhere in Canada. It is the difficulty of reconciling the conflicting interests of industry together with the need of providing revenue for the railways which makes it practically impossible to arrange railway services and rates so as to benefit particular areas.

STATEMENT OF RATES AND EARNINGS PER CAR, PER CAR MILE, AND PER TON MILE ON CATTLE AND HOGS, CARLOADS, FROM WINNIPEG, MOOSE JAW, CALGARY AND EDMONTON TO TORONTO AND MONTREAL.

From	To	Commodity	Miles	Rate per 100 Lbs.	Minimum Carload Weight.	Average Loading Weight	Earnings Per Car	Earnings Per Car Per Mile	Earnings Per Ton Mile
				¢	Lbs.	Lbs.			
Winnipeg	Toronto	Cattle	1231	103	20,000	22,500	$231.75	18.8¢	1.67¢
Moose Jaw	Toronto	Cattle	1629	134	20,000	22,500	301.50	18.5	1.65
Calgary	Toronto	Cattle	2054	139	20,000	22,500	312.75	15.2	1.35
Edmonton	Toronto	Cattle	2079	139	20,000	22,500	312.75	15.0	1.34
Winnipeg	Montreal-Domestic	Cattle	1414	103	20,000	22,500	231.75	16.4	1.46
Moose Jaw	Montreal-Domestic	Cattle	1812	134	20,000	22,500	301.50	16.6	1.48
Calgary	Montreal-Domestic	Cattle	2237	139	20,000	22,500	312.75	14.0	1.24
Edmonton	Montreal-Domestic	Cattle	2263	139	20,000	22,500	312.75	13.8	1.23
Winnipeg	Montreal-Export	Cattle	1414	103	20,000	22,500	231.75	16.4	1.46
Moose Jaw	Montreal-Export	Cattle	1812	134	20,000	22,500	301.50	16.6	1.48
Calgary	Montreal-Export	Cattle	2237	139	20,000	22,500	312.75	14.0	1.24
Edmonton	Montreal-Export	Cattle	2263	139	20,000	22,500	312.75	13.8	1.23
Winnipeg	Toronto	Hogs	1231	103	16,000	14,500	164.80	13.4	1.67
Moose Jaw	Toronto	Hogs	1629	134	16,000	14,500	214.40	13.2	1.65
Calgary	Toronto	Hogs	2054	139	16,000	14,500	222.40	10.8	1.35
Edmonton	Toronto	Hogs	2079	139	16,000	14,500	222.40	10.7	1.34
Winnipeg	Montreal-Domestic	Hogs	1414	103	16,000	14,500	164.80	11.7	1.46
Moose Jaw	Montreal-Domestic	Hogs	1812	134	16,000	14,500	214.40	11.8	1.48
Calgary	Montreal-Domestic	Hogs	2237	139	16,000	14,500	222.40	9.9	1.24
Edmonton	Montreal-Domectic	Hogs	2263	139	16,000	14,500	222.40	9.8	1.23
Winnipeg	Montreal-Export	Hogs	1414	103	16,000	14,500	164.80	11.7	1.46
Moose Jaw	Montreal-Export	Hogs	1812	134	16,000	14,500	214.40	11.8	1.48
Calgary	Montreal-Export	Hogs	2237	139	16,000	14,500	222.40	9.9	1.24
Edmonton	Montreal-Export	Hogs	2263	139	16,000	14,500	222.40	9.8	1.23

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TABLE 2.

Statement of Rates and [illegible] Per [illegible], Per Car [illegible] and Per Ton Mile on Dressed Meats and [illegible] Products, Carloads, from Winnipeg, Moose Jaw, Calgary and [illegible] to Toronto and Montreal

From	To	Commodity	Miles	Rate Per 100 lbs.	[illegible] Carload Weight	[illegible] Weight	Per Car	[illegible]	[illegible]
				¢	lbs.	[illegible]			
Winnipeg	[illegible]	Dressed Meats	1231	146	21,000	28,276	$412.83	[illegible]	[illegible]
Moose Jaw	[illegible]	[illegible]	1629	197	21,000	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	Dressed Meats	2054	227	21,000	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	Toronto	Dressed Meats	2079	227	21,000	28,276	641.87	[illegible]	[illegible]
Winnipeg	Montreal-Domestic	[illegible]	1414	146	21,000	[illegible]	412.83	[illegible]	[illegible]
Moose Jaw	Montreal-Domestic	Dressed Meats	1812	197	21,000	[illegible]	557.04	[illegible]	[illegible]
[illegible]	Montreal-Domestic	[illegible]	2237	227	21,000	[illegible]	641.87	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	2263	227	21,000	[illegible]	641.87	[illegible]	[illegible]
Winnipeg	Montreal-Export	Dressed Meats	1414	134	30,000	34,914	[illegible]	[illegible]	[illegible]
Moose Jaw	[illegible]	[illegible]	1812	174	30,000	34,914	607.51	[illegible]	[illegible]
[illegible]	Montreal-Export	Dressed Meats	2237	198	30,000	34,914	691.30	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	2263	198	30,000	[illegible]	691.30	[illegible]	[illegible]
Winnipeg	Toronto	[illegible] Products	1231	121	30,000	51,187	619.37	[illegible]	[illegible]
[illegible]	[illegible]	[illegible] Products	1629	166	30,000	51,187	849.71	[illegible]	[illegible]
[illegible]	Toronto	Packing House Products	2054	194	30,000	[illegible]	993.03	[illegible]	[illegible]
[illegible]	[illegible]	Packing House Products	2079	194	30,000	51,187	993.03	[illegible]	[illegible]
[illegible]	Montreal-Domestic	[illegible]	1414	121	30,000	[illegible]	619.37	[illegible]	[illegible]
[illegible]	Montreal-Domestic	[illegible]	1812	166	30,000	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	Montreal-Domestic	[illegible]	2237	194	30,000	51,187	993.03	[illegible]	[illegible]
[illegible]	[illegible]	[illegible] Products	2263	194	30,000	51,187	993.03	[illegible]	[illegible]
Winnipeg	Montreal-Export	[illegible]	1414	110	34,000	[illegible]	[illegible]	[illegible]	[illegible]
Moose Jaw	Montreal-Export	[illegible]	1812	146	34,000	[illegible]	740.81	[illegible]	[illegible]
[illegible]	Montreal-Export	[illegible] Products	2237	169	34,000	50,740	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	2263	169	34,000	[illegible]	857.51	[illegible]	[illegible]

October 1st, 1949.

CANADIAN PACIFIC LINE NORTH OF LAKE SUPERIOR

In the brief of Saskatchewan many references are made to the so-called "Bridge" or "Wilderness" between Eastern and Western Canada comprising the Canadian Pacific railway line in the territory between Sudbury and Winnipeg.

On page 5, it is stated that 1,000 miles of wilderness, yielding relatively little in the way of revenue freight, separates Saskatchewan from the industrial areas of Ontario and Quebec. On page 6, the statement is made that as a matter of national policy, the Government of Canada determined that a Transcontinental railway should be built wholly within Canadian territory rather than follow the more obvious route which would have necessitated a portion of the line passing through the United States. This, it was stated, was done at very considerable cost, not only in construction around the rocky north shore of Lake Superior, but in operations since that time.

This matter is again referred to on pages 79 to 81, inclusive, of the brief. On page 81 the statement is made that the construction of the Canadian Pacific to the north of the Great Lakes was dictated by national policy and can only be justified as in the national interest. It is further stated that the costliness of the construction through these regions accounts to a considerable extent for the fixed charges of Canadian Pacific and is reflected in railway rates. Moreover it is said the hundreds of miles of Shield bridged by the Canadian Pacific remain unremunerative in terms of traffic and thus not only the fixed charges but also the operating costs of the region fall upon traffic which originates or is destined elsewhere.

At page 103 of the brief, the position is taken with "absolute definiteness" that the high cost of construction and operation in the region north of the Great Lakes can in no sense be chargeable to the Prairie region and "This route was dictated by the national policy and the Prairie region ought not to pay

additional cost as a result".

It is quite apparent, from many of the statements made on this subject, that those making them are not properly informed. While it may be that in the development of this country, the traffic originating in this area was not as abundant as that in the Prairie Provinces, this, however, is not now the case. During the year 1948 the number of tons of traffic originating on the lines of the Canadian Pacific in the so-called unproductive area and in the Prairie Provinces, with the tons per mile, is shown hereunder:-

Area	Number of Tons of Originating Traffic	Number of Tons Per Mile
Between Sudbury and Port Arthur .... (Excepting Sudbury and Port Arthur)	1,308,087	2,425
Port Arthur, Fort William and West Fort William	745,331	--
Between West Fort William and Winnipeg... (Except West Fort William and Winnipeg)	850,923	1,974
Between Sudbury and Winnipeg............ (Excepting Sudbury and Winnipeg)	2,904,341	2,991
Province of Manitoba	3,191,671	1,698
" " Saskatchewan	5,082,412	1,121
" " Alberta	6,892,240	2,629

One method of determining the value of a line is the tons er mile of originating traffic. During the year 1948 the so-called ilderness between Sudbury and Winnipeg originated a larger amount f tonnage per mile of railway than any of the Prairie Provinces aken individually or collectively. There is no reason to believe hat the tonnage produced in the area between Sudbury and Winnipeg ill not continue in reasonable relationship with the Prairie rovinces.

Canadian Pacific submits that there is no evidence that the urden of overcoming the disadvantage provided by the operation of e railway through the so-called "wilderness" north of Lake Superior any greater than if an alternative route through the United States outh of the Great Lakes had been used. At all events that burden, it can be called a burden has not caused railway rates between ntral and western Canada to be as high as those on the more fortuna- ly situated railway lines in the United States. Reference is again de to pp. 52-55 of the Appendix to Part I of the Submission.

GRADE CROSSING ELIMINATION

At page 3935 of the transcript, the Brief of the Province of New Brunswick recommends that all level crossings be eliminated within a reasonable period, with Government assistance if necessary, and that in the interval all crossings be protected by electric signal devices. Again at pages 3979-80, the Province states, after pointing out that there are approximately 32,000 railway crossings in Canada, that the most dangerous should be eliminated by grade separation, while the latest type of flashing light and sounding alarm should be placed on the less dangerous ones. It recommends that the Federal Government should take the initiative in a program of this kind, with 70% of the cost to be borne by the Federal Government, 10% by the Provinces and Municipalities and 20% by the Railways.

Under Sections 256 to 267 of the Railway Act, the Board of Transport Commissioners is already vested with full power to order grade crossing elimination or protection by automatic signal devices or otherwise, whenever the Board deems such measures necessary on grounds of public safety. Thus no change in the Act is necessary in this respect.

A policy of grade crossing elimination has been maintained by the Federal Government for many years under Section 262 of the Act, which provides for the establishment of the Railway Grade Crossing Fund. This fund is replenished each year by an appropriation of $500,000 from the Consolidated Revenue Fund of Canada, and is administered by the Board of Transport Commissioners, which has power to make contributions from it to aid in actual construction work for the protection, safety and convenience of the public in respect of level crossings. Under the Section as it now stands, contributions from the Fund are limited to 40% of the total cost of actual construction work with a maximum to any one project of $100,000.

Every province is at liberty to make additions to the Grade Crossing Fund upon its own terms, and Subsection 2 of Section 262

provides that conditions and restrictions made and imposed by a province in respect of its contributions shall be observed by the Board. It is thus within the power of a province to expedite grade crossing protection within its boundaries. Nevertheless the Annual Reports of the Board indicate that no province has ever taken advantage of this opportunity by a contribution to the Fund.

The cost of a grade separation depends upon conditions at the point of crossing, but in recent years the costs of various projects have reached as high as $700,000 and an average might be estimated at $300,000. Similarly, the cost of installation of automatic protection at grade crossings averages in the vicinity of $6,000. In the light of these figures the impossibility becomes apparent of eliminating or even protecting by automatic devices, all of the grade crossings in Canada.

It is also evident that if an accelerated program of grade crossing elimination is to be undertaken, it will impose upon the railways an insupportable burden of cost unless the limitations now imposed upon contributions from the Grade Crossing Fund are altered. The usual practice of the Board in grade separation and protection cases is to apportion between the railway and the highway authority, the balance of cost remaining after contribution from the Grade Crossing Fund, and when the total cost is from $300,000 to $700,000 this balance is very substantial. Canadian Pacific submits that the limitation of $100,000, which was fixed by an amendment to the Act in 1928 (Chapter 43), has become absolete by reason of increased costs of construction. Moreover, the imposition of any fixed maximum amount is illogical and should be deleted from Section 262. If it is proper for a percentage of the cost of a grade separation to be assumed by the Grade Crossing Fund, it is manifestly unfair to prevent that percentage from being granted because of the operation of a fixed limit in the statute. The result in such a case is to throw an undue burden upon the railways.

The reason advanced by the Province of New Brunswick for

proposing an increased program of crossing protection and elimination is "the improvement of highways and of motor vehicles, making average speeds much greater" (Transcript p. 3979). Canadian Pacific desires to emphasize that every highway improvement has, among other things, the effect of facilitating the operations of its competitors on the highways. Highway networks are yearly becoming more extensive and more within the Provincial and Dominion fields of responsibility. In addition the number of motor vehicles using the highways is steadily mounting. On the other hand, while the railways are at present carrying more traffic than in former years, this is being done largely by the operation of longer trains, so that there has been no substantial increase in the number of trains operated. Thus the additional hazard that may now exist at grade crossings cannot be said to be attributable to the railways. It would be most unjust to burden the railways with large increases in costs due to greater hazards caused entirely by the increased motor traffic. The protection against this increased hazard should largely be provided by the highway authorities, which can then pass on to highway users the added cost attributable to their use of the crossings. Modern highways have been required in the public interest, and protection against the added risks should be borne by public funds. Canadian Pacific therefore agrees with the proposal of the Province of New Brunswick that contributions from the Grade Crossing Fund should be raised from 40% to 70%.

On page 3980 of the transcript the Province of New Brunswick proposes that the cost of grade crossing eliminations should be apportioned, after contribution from the Grade Crossing Fund, 10% to the province and municipalities and 20% to the railways.

It has always been the practice of the Board to examine the merits of each crossing case coming before it to determine

the manner in which costs of improvements should be shared among the interested parties. When it is considered that there are frequently six or more parties to such cases, with various degrees of interest and responsibility, it becomes clear that the power of apportionment should be left to the Board and that any attempt at a fixed formula would be unfair and impracticable. Moreover, an apportionment of 20% of the cost to the railways would in itself be unreasonable. As pointed out above, the railways have not been responsible in any way for the need of increased crossing protection, and the provinces and municipalities should in large part assume this burden.

It is worthy of note, however, that in this submission New Brunswick is in favour of part of the cost being assessed against the province. This is a departure from the position assumed by provincial authorities for many years, that as the Crown is not named in Sections 256 to 267 of the Railway Act no provincial contribution toward the cost of crossing improvement may be ordered by the Board even in respect of a provincial highway. Under the present wording of the Act, the Board has been obliged to uphold this position (Deloraine v. C.P R., 46 C.R.C. 48 and other cases), although in some instances the difficulty has been overcome by the voluntary consent of the province to assume part of the cost. However, while in theory the Board should have freedom to decide on grounds of public safety alone, whether protection or grade separation is or is not to be undertaken, it has in practice been hampered in many cases by the fact that provinces have refused to contribute. To rectify this situation Canadian Pacific submits that the Railway Act should be amended to permit assessments to be made against the Crown in respect of improvement of railway crossings on provincial highways.

INCIDENCE OF FREIGHT CHARGES

Regardless of who pays the freight bills, it is submitted that in the long run and in a very real sense freight charges are borne by the consumer. In this respect transportation, as an element in the cost of production, does not differ from other elements.

It would appear that this fact has been overlooked by certain groups of producers, for example, the farmers in Western Canada.

Inasmuch as production is called into existence by consumer demand and the limits of production costs which can be recovered in the sale of goods or services are governed by what the consumer is willing to pay, the costs of production are passed on to the consumer. The consumer is not concerned with the relative amounts of the elements of production costs, but only with the total price he has to pay. It makes no difference to him whether the price he pays covers low rents and high transportation costs or high rents and low transportation costs. Consumer demand sets the price in the first place and the choice as to where and under what circumstances production will take place, rests entirely with the producers. The profit incentive will induce producers to locate where their total production costs, of which transportation is only one item, will be least.

The significant fact is that density of population and large consumer demand have created high land values and high rents in the areas surrounding the large consuming markets. These high rents have made it possible for producers to operate profitably in areas remote from the market, where land is cheaper, notwithstanding their higher transportation costs.

The truth of the statement that transportation costs are borne by the consumer is quite apparent in times of rising prices when markets tend to favour sellers. Its validity, however, is sometimes obscured by the temporary shifting of economic forces in

times of falling prices when markets are more favourable to buyers. In a buyers' market some producers will have difficulty in recovering, and some will be unable to recover, their full costs of production from consumers. In a sellers' market, it is relatively easy for the producer not only to recover his costs, but also to make a profit. The economy is not static. The forces of supply and demand are usually shifting one way or the other in varying degrees, but always toward a balance and always toward those uses of land, labor and capital (which includes transportation) where they will create the maximum satisfaction of consumer demands.

In circumstances where a producer, owing to misjudgment or to changes in demand and supply, is unable to recover production costs through the market from the consumer, the producer bears that portion of his costs which he is unable to pass on to the consumer. It is unrealistic, however, for him to single out one element in his costs of production, such as transportation, and to say that he pays this cost and that his other costs are borne in whole or in part by the consumer. The producer's loss must be attributed to all of his costs, of which wages, materials, taxes, interest and depreciation on investment, would generally far outweigh transportation costs. This is borne out by the fact that producers, who are near their markets and have low transportation costs, suffer losses as well as producers who are far removed from markets and have high transportation costs.

Influence of freight rates upon the cost of living and on the prices of particular commodities.

The material below is divided into four parts. There is first of all, a study of the movement of the national average of the cost of living in Canada. Secondly, there is a study of the costs of living in particular cities. Third, is a study of the costs of particular groups of components in the cost of living, and finally there is a study of the price behaviour of particular commodities based upon a field study made in the summer of 1949.

Changes in the National Index of the Cost of Living

The index of the cost of living was remarkably stable through the years 1943, 1944, and 1945. This stability extended through the first quarter of 1946, but thereafter change took place rapidly. Between March and December 1946, the index rose by seven points; between December 1946 and December 1947, by 18.9 points; and between December 1947 and December 1948, by 12.9 points. The increase from December 1948 to August 1949 is about 4 points. It will be seen, therefore, that it will prove extremely difficult in such a period of generally rising prices to measure the effect of the freight rate increase at April 8, 1948.

The method adopted was to make a centred 12-month moving average of the index from January 1946 to date to see if there was any abnormal departure of the index from the smoothed curve directly after the rate increase went into effect. The graph which will be found at p. 160A herein shows that there was not. The monthly index of the cost of living at May and June 1948 lie right on the centred moving average. Thereafter, there is some departure, but its obvious cause is that the index ceased to rise from October 1948 to May 1949.

This is a negative demonstration only. Freight rates may have some effect on the movement of the cost of living index; but if it exists it was too small to show up in this test.

Variation in the Cost of Living Index in Various Cities

The Dominion Bureau of Statistics publishes eight indexes of cost of living for the following cities: Halifax, Saint John, Montreal, Toronto, Winnipeg, Saskatoon, Edmonton, and Vancouver. It should be understood that these indexes are not directly comparable with each other. Each one is tied back to its base at the years 1935-1939. They are extended to provide an answer to a specific question - that is to say, if it cost $100 to maintain a given standard of consumption at August, 1939, how much would it cost to maintain the same standard of consumption in the same cities at some other date?

At August 1949, these cities arranged themselves in ascending order of living costs on the base August 1939 equals 100, as follows: Halifax, Winnipeg, Edmonton, Toronto, Saint John, Saskatoon, Vancouver, and Montreal. Montreal has actually been higher on this comparison than any of the other cities in every year since and including 1940. Since it is clearly a city with rather substantial transportation advantages, the explanation for its relative increase in expensiveness must be attributed to some other factor. The most likely explanation is, of course, that the changes in cost of living are the result of the whole play of economic forces upon the various cities, and that Montreal, for various reasons, had a greater increase than any other city, perhaps because of its position as a manufacturing center, but possibly for other reasons as well.

A second approach to this problem is to check upon the percentage increase in the cost of living between some chosen period before the freight rate increase went into effect, and the most recent period for which data are available after it. Two comparisons were set up. The first was between the calendar year 1947 and the average of the three months June to August, 1949. The second was between the average of the three months January to March 1948, and various dates down to June - August, 1949. Of the two, it was felt that the latter was the more trustworthy comparison. The index had been so violently disturbed in 1947 that it seems safer to take a short period just before the rate increase went into effect. Since the cost of living is measured at the first of each month, the base period then was, effectively, two months away from the increase in freight rates.

When the calendar year 1947 is used as the base, then the increases in the cost of living index to June - August 1949 were least in Halifax, Toronto, Saint John, and Saskatoon

in that order. On the other hand when the months January - March 1948 are used as the base, the lowest increases are shown in the same four cities but in a different order, i.e. Toronto, Saskatoon, Saint John and Halifax. It will be seen that three out of these four cities are in areas from which there is complaint concerning the incidence of freight rate increases. In fact, Montreal which was already above these other cities in the first quarter of 1948, had a sharper percentage increase to June - August 1949.

In only one city does there seem to be a clear indication that living costs have increased more than in the others. This is Vancouver and there appears to be an increase of about 1.6 percentage points over the unweighted mean for the eight cities. One could not assume that this resulted from the change in freight rates any more than it resulted from the general business boom in the area. Statistically it seems to be a minor but significant departure from the mean.

Similar tests were made of percentage changes in the cost of living index from January - March 1948 to the third and fourth quarters of 1948, and to the first quarter of 1949. They show a fairly significant shifting as between the cities. For example, the change in the index for Saint John, N. B. between the first and third quarters of 1948 was greater than in any other city. In the next two quarters the change was less than average. Winnipeg, on the other hand, showed the least change between the first and third quarters of 1948, but it settles thereafter at something between fifth and sixth position in the size of the percentage change. Saskatoon shifts about, moving from third position up to seventh, back to fifth, and standing in second place in the amount of change to June - August 1949. In other words, there are many factors which affect the cost of living index and even if freight rate costs were a significant factor in that index, that effect might be neutralized by other factors.

Behaviour of Component Parts of the Cost of Living Index in the Various Cities, First Quarter 1948 to June-August 1949

The easiest way to see what has happened to the component parts of the cost of living index is to examine the table given below in which the movement of each separate component of the index is shown for each city. The interpretation of the table is fairly easy; taking column one as an example, it shows that the percentage increase in food costs in St. John was less than in any other of the eight cities. The increase in the food index for Toronto stood next in line and so on through Saskatoon, Halifax, Montreal, Winnipeg and Edmonton which are tied, to Vancouver in which costs were highest. Similarly in fuel and lighting Halifax has the lowest percentage increase in its cost, followed by Winnipeg, Montreal, Saint John, Vancouver, Toronto, Edmonton and Saskatoon. Inspection of this table will show that it is very difficult to relate it to any one single factor of cost such as transportation.

Ranking of Percentage Increases from January-March 1948 to June-August 1949 in the Various Segments of the Cost of Living Index by Cities

City	Food	Fuel & Lighting	Clothing	House Furnishings and Services
Halifax	4	1	8	5
Saint John	1	4	7	1
Montreal	5	3	1	2
Toronto	2	6	4	6
Winnipeg	6	2	2	4
Saskatoon	3	8	3	8
Edmonton	6	7	5	3
Vancouver	8	5	6	7

A field Study of the Price of Individual Commodities

A field study of changes in retail prices since the freight rate increase took effect in April 1948 was made during the summer of 1949. An attempt was made where possible, to get prices as of October in 1947 and in 1948 and in June, 1949. The commodities to which attention was given were principally those on which there was a national market so that it would be possible to make nationwide comparisons. About six weeks was put in on initial organization with help, which is gratefully acknowledged, being given by the Dominion Bureau of Statistics and by the Wartime Prices and Trade Board. The study included shoes, men's suits, a heavy household appliance, carpets,

automobiles, cement, coal, apples and potatoes.

As to shoes: It was not possible to get comparable prices on Women's shoes. These are style items which never last through more than two selling seasons (roughly a calendar year); but it was possible to get five different men's shoes on which comparisons could be made. At the most the freight cost on a pair of shoes will not exceed 18 cents a pair. It is therefore one of the negligible factors in the cost of all except the cheapest work shoes. All other shoes are produced and marketed upon a national basis.

Most shoe merchants allow 10 percent on the f.o.b. factory cost to cover sales tax and transportation. Very few of them made any change in mark-up when the last rate increase took place. For those few who did, the most common was to lift that percent from 10 to 11.

The most common retail mark-up was 50 percent. Those stores which felt that they had an exceptional range in styles and sizes would usually allow 60 percent as a normal selling margin. Whatever the particular margin chosen, it was applied less against any particular shoe than it was against the average turnover. One of the better merchants actually made a practice of pricing his stock with the help of his salesmen without any reference whatsoever to the cost of the goods. He relied upon their common judgment of the selling quality of the goods rather than upon any mechanical application of a fixed mark-up. Even where merchants were less self-reliant than was this man, there were certain conventional prices or price ranges which were uniformly regarded as being highly important. A shoe whose style was good would bring from 50 cents to 1 dollar above the normal mark-up. One which did not have such sales appeal might be marked down by an equal amount so that it would sell more readily.

Two general opinions were expressed upon the effect of a possible further increase in freight rates. The majority contended that it couldn't matter less. The minority thought it would be most unwise because people were beginning to be resistant to rising prices. The view of the minority was that the merchants had absorbed the last increase, but couldn't absorb another one. They felt that if prices were raised at all, it should possibly be about 50 cents per pair

[illegible] freight rates.

The [illegible] made in [illegible] October 1st, 1947, $9.10 at October 1st, 1948; and $9.25 at June 1st, 1949. Comparing October 1st, 1947 with June 1st, 1949, only two of the seventeen quotations showed an increase in prices. Oddly enough both of those showing increases were in the Maritime Provinces: namely, Truro, N.S. and St. John, N. B. The highest price on each of the last mentioned dates was in St. John, N.B. which is within one-hundred miles of the factory. In other words, fifteen out of seventeen merchants scattered across this country had absorbed the increase in factory cost and the increased freight charge in order to hold to a conventional price.

It was significant that this shoe sold at the highest price, [illegible] $16.00 in St. John, N.B., Belleville, Ont., and New Westminster, B.C. On the other hand, it sold for $15.50 at Nanaimo, B.C., $15.00 at Trail, B.C. and $15.00 at Winnipeg, Man.

The second shoe on which quotations were obtained had a factory price of $6.05 at October 1st, 1947, and $5.55 at June 1st, 1949. Fifteen quotations were obtained in various cities across the country. On six of them the price was reduced between 45¢ and 55¢, in nine of them it was reduced by $1.00 to $1.05. On another shoe, the factory price increased by 49¢. Retail prices showed no increase in four cases, one increase of 80¢, three of $1.00 and one of $1.50.

It is clear, therefore, that in relation to these shoes which have a national market, the transportation cost from the factory is a relatively minor factor in price. It is not only very small in relation to the factory price of shoes, but merchants do not regard it as being one of the important factors in setting retail prices. It is merely one of the minor costs which has an effect upon their merchandising margin.

<u>As to men's suits:</u> Two men's suits with national markets were investigated. The first was a suit manufactured and sold at a uniform price in and east of Winnipeg, and at this eastern price

plus $1.25 everywhere west of Winnipeg. The other was a suit which was sold f.o.b. factory and on which the dealer was allowed to make his own prices. Men's suits being a valuable commodity, transportation upon the assembly of the raw material and the outward shipment of the finished product is not important, since it is something less than 1 percent of the value.

Where prices differed upon the first suit, it was to compensate for increased labour and material costs and transportation was merely a [illegible] first suit, the higher markup on suits sold west of Winnipeg was in part to offset the higher transportation charge, but most of it went to the dealer in a higher profit after such charge.

In the case of the second suit on which the dealer was free to establish his own selling price, the normal markup was in the order of 50 percent upon the landed cost, but there were variations as between cities and indeed as between merchants within the one city. At October 1st, 1947, when the factory price was $30.00, seven merchants were selling the suit at between $45.00 and $48.00; fourteen sold it between $48.50 and $49.50; and six between $50.00 and $54.00. The most usual price was $49.50. At June 1st, 1949, when the factory price was $35.00, four sold it at $52.00-$54.50; eighteen at $55.00-$57.50; and five between $58.00 and $61.00. The most usual prices were $57.50 and $55.00. At both dates, some of the lowest selling prices were farthest from the point of origin. As in the case of shoes, the pricing was a merchandising matter depending upon the store owner's judgment of the merchandise, its sales appeal in his particular territory, and his estimate of merchandising prospects.

As to Widgets: In view of the necessity of preserving the confidence imposed by producers who were very co-operative in providing information but desired that their identity be not disclosed this portion of the submission uses the term "widgets" to describe a heavy household appliance. The producers interviewed produce between them about fifty percent of the total Canadian supply of "widgets".

... relatively small percentage of total manufacturing costs. One of the producers gave inward freight costs as about 1½ percent, and outward freight on the finished product as about ½ percent of factory costs.

Both producers who are located in Ontario absorbed the 21 percent increase in 1948 because they thought it necessary under the competitive conditions of the time. Both stated that they thought it would be necessary to absorb another 20 percent should it occur. Both raised prices in 1948, but both said it was to cover increases in labour and material costs.

Producer "A" establishes a base price in Southern Ontario and sells in the rest of Canada, excluding British Columbia, at the base price plus $10.00. In British Columbia it sells to the jobber at jobbing price and the latter is completely free to establish his own wholesale prices and to suggest (or fail to suggest) the retail price. In fact Widget "A" sold in Trail at $1.50 and in New Westminster at $5.50 below the maintained price in Alberta in June 1949.

Out of the $10.00 added to the base price for areas outside Southern Ontario, $6.00 is retained by the Producer, probably to cover the cost of operations of its warehouses and of the movement of the goods to the warehouses from the factory, and $4.00 goes to the retailer. Out of that sum the retailer is required to pay transportation costs from the warehouse to his store.

Producer "B" had a slightly different selling policy. He established a uniform price over the whole of Canada east of the Alberta-Saskatchewan border. In distribution in Alberta the price is $5.00 higher. The basic movement is in Carload lots from the factory to the distributors' warehouses in Calgary and Edmonton. The dealer pays the net price at those points plus less than carload freight costs beyond. The aim is to keep the same percentage mark-up as between dealers in different locations. In British Columbia the producer sells to a jobber who is free to set the prices as he sees fit. All the retail prices collected in British Columbia were made at $15.00 above the maintained price in and east of Saskatchewan.

The $10.00 charge made by Producer "A" is obviously not related to transport costs alone. If it has any justification at all, it is in relation to higher marketing costs. For example at June 1st, 1949 it

cost $1.36 per unit to ship to the Company's Saint John, N.B. warehouse in carload lots, and $1.69 to ship l.c.l. from there to Sydney, N.S. The total transportation cost to Sydney was therefore $3.05 per unit. There was no net saving in transport costs from the use of a Maritime warehouse for shipments to Sydney because the l.c.l. rate to Sydney was actually 7¢ per unit less than the combination of carload and l.c.l. rates via Saint John.

The transport cost of laying down a widget in Regina was $5.22 per unit, based on a carload movement to Winnipeg and less than carload movement to Regina. The transport saving over a through l.c.l. shipment was $2.57, but it is seen that only approximately one-half of the $10.00 assessed against the Regina consumer was necessary to cover transport costs from the factory. To Lethbridge, the actual transport cost was $6.84 per unit, being based on a carload movement to the warehouse at Edmonton and less than carload movement beyond.

To Trail, B.C., the freight rate as at June 30th, 1949, based on a carload movement to Vancouver and an l.c.l. movement to Trail was $9.19 per unit. After the removal of the Mountain Differential this was reduced to $8.51. The whole saving was absorbed by the trade and none was passed on to the consumer.

For the city of Vancouver itself, the transport cost per unit from the factory in carload lots was $5.27.

Producer "B" followed a slightly different selling practice. All shipments to the Maritimes are made in less than carload lots but the company computes the freight to Moncton and absorbs it. The dealer is required to pay only the difference between the freight rate to his own town and the rate from the factory to Moncton. If the dealer takes a carload, the company pays all freight charges.

In the West the company maintains a branch warehouse in Winnipeg; it has a distributor at Edmonton and Calgary; and a jobber representing it in Vancouver. On a shipment to Regina, the Total freight charge, carload to Winnipeg and l.c.l. beyond, is $8.27. On distribution in Alberta the price is stated to be $5.00 higher in order to cover freight from Winnipeg, although in fact, distribution is made from Edmonton and Calgary.

To Vancouver the freight charge per unit was $8.35 as at June 30th, 1949. After that date it was $8.24. Therefore on sales in Vancouver $6.76 out of the total surcharge of $15.00 is made for reasons other than transport costs. On distribution in outlying points, however, the total freight cost comes close to the amount of that differential. At Trail,

f- example, total transport costs per unit carload to Vancouver and l.c.l. to Trail, amount at the present time to $13.48. It is therefore probable that some element of additional margin is present on all sales in British Columbia. In the major market of the lower mainland and Vancouver Island the margin is nearly as great as the transport cost.

As to Carpets: It was necessary to find a carpet which was sold nationally, which could be readily identified by merchants all over the country, and which had been in fairly good supply over the past two years. The manufacturer of the carpet which was finally chosen was relatively uncooperative, but adequate information was developed from the dealers on three sizes of this standard carpet.

Attention was paid only to household carpets. There is also an important industrial market for carpets sold to hotels, theatres, and other large buildings. This is however a separate market and was not covered in the Study. Sales are made directly in the latter market and each contract is a separate bargain. Household carpets on the other hand are sold generally through merchants to the ordinary private consumer. The usual terms on which sales are made to wholesalers are at discounts of 20 and 2 percent from the manufacturers' list price. Large retailers and chain stores get discounts of 15 percent. Individual retailers normally get 10 percent, but sometimes for reasons which are not particularly clear, are able to get 15 percent. All sales are made f.o.b. 'actory and therefore the same carpet may have a different landed cost in ne same town depending on the marketing channel through which it reached hat town.

The 9' by 12' size had, at June 1st, 1949, a list price of $66.00. his is an increase of 19 percent over the price of $55.50 at October 1st, 947. The change was made in two steps at April and September, 1948, irst to $61.00, and then to $66.00. In June 1949 this carpet sold cross Canada at prices ranging from $87.50 to $115.50. A total of twenty-ne quotations were collected--two at $87.50; one at $92.50; three at 95.00; two at $98.00; seven at $99.50; three at $100.00 and one each $104.50, $109.50 and $115.50.

Transport cost amounted to but 5 percent of the laid down st of the goods at the most distant points so that the determining

factor in deciding whether the carpet would sell at anywhere between $[illegible] and $[illegible] was the merchandising policy of the dealer and the amount of [illegible] discount. For example, this carpet which was produced in Toronto sold at $95.00 in Vancouver, Winnipeg and Fort William, but at $99.50 to $100.00 in Trail, Calgary, Montreal, Sydney, and Halifax. The increase in transport costs at Arpil 1948 was at most 45¢. Asked whether freight rate increase will be passed on merchants stated that that will depend upon marketing conditions. That is to say if demand is strong they are likely to be increased in price but if demand is weak it is unlikely to [illegible] increase. Merchants [illegible] that an important factor in price for house furnishings is Eaton's catalogue. Aggressive dealers try to price competitively while the others do not and are content with a higher markup upon a smaller volume.

As to Automobiles: The retail prices of automobiles are set by the producers. To the list price at the factory there are added sales and excise taxes, a uniform delivery and handling charge of about $10.00-$12.50, and a freight allowance which is slightly in excess of the actual freight charge. Since the freight allowance is slightly more than 100% of the actual freight charge, it means that there is a slight increase in the distributing margin as the actual freight paid increases. Because of the nature of the automobile business, it is quite impossible to say anything of the net margin received by dealers. The [illegible] margin is affected by the kind of deals they make on second hand cars traded in against new cars sold.

Inward freight on parts and supplies is a negligible factor in automobile production. One maker gave it as 0.42 percent of the list price of the factory before taxes.

In Western Canada there was a fairly considerable agitation among dealers for some scheme of freight equalization. In other

parts of Canada, dealers accepted the last rate rise with equanimity. The market was strong, freight was a relatively small percentage of the retail selling price and sales were not affected at all. They further stated that a second increase of 20 percent at the present time would not curtail sales. At Nanaimo for example, which is one of the points in which freight cost is highest, dealers were not concerned by freight cost, but were quite interested in the removal of sales and excise taxes which press with a far greater weight.

As to Cement: Portland cement is a heavy commodity on which transport costs might be expected to bear very heavily. Inward transportation cost on coal and other supplies is heavy, and cement is also a heavy commodity of low value.

Current trade practice east of British Columbia is to sell on an f.o.b. mill basis, but with freight allowed to destination. This basis permits the company to alter its mill net price as between cities and there seem to be good indications that at the borders of the market, the company shrinks its mill-net price in order to compensate in part for outward transportation costs.

The dealer is a very important factor in the marketing of cement because of the nature of the product. Unless carefully stored, it will deteriorate in quality. The company is therefore compelled to give the dealers considerable leeway. Prices to consumers vary sharply even within the same town, depending upon the competition between dealers and the competition of other building materials. About 30 to 40 percent of the cement produced is currently used in residential construction and therefore the competition of other materials is a very serious factor. If, for example, lumber prices were to fall sharply, it would inevitably have an important influence upon the marketing possibilities of cement.

Dealer markups vary as between cities and sometimes within the same city. The low seems to be about 20 percent. The middle group runs between 25 and 33 percent. In one Maritime city the markup ran as high as 55 percent, and in two others, 39-40 percent. Quite sharp differences are made as between customers taking different quantities. For example, in one of the cities in which markups were high, carload lots were sold at $1.03 per bag. Lots of one-hundred bags and over were sold by one dealer at $1.10 and by another at $1.20 per bag. For small lots the price quoted by two dealers was $1.30, but the third quoted $1.20. It may be added that markups tend to vary. In one Maritime town the markup in the fall of 1948 was 50 percent. At June 1949 it was down to 20 percent. The cause was principally the intensity of competition as between dealers.

It would therefore appear that even in relation to a product like cement, the marketing margins were more important than the increase in freight rates made in April 1948. This may appear as a rather startling statement, but it is borne out by the facts.

As to Coal: The best coal of the Maritime Provinces is produced in Cape Breton and is sold f.o.b. Sydney. The wholesale price to dealers there was $10.20 for screened lump in October, 1947, $10.60 in October, 1948, and $10.85 in June, 1949. Freight rates to many centers were between $1.50 and $2.40 per ton and were increased by a further 20¢ in April 1948. Freight cost was at a maximum of 19.3% of the mine cost plus freight to destination.

In the same period, dealers' margins increased anywhere from: no increase at Truro; 15¢ at Saint John; to a maximum of $1.05 at Edmundston. At no place was the freight rate for the haul to the distributing center as great as the dealer's margin. The minimum margin on landed cost was 23 percent, the maximum 38 percent. This is illustrated by Table 1.

In Ontario the dominant coal consumed as household fuel is American Anthracite. Its price at the mine for nut and egg sizes has changed from $11.00 at October 1, 1947 to $11.75 at June 1949. At that later date the freight from the mine to Toronto was $4.62, dealer's margin $4.32. At Bellville, Ontario, the freight at the same date was $5.16 per ton, the dealer's margin $4.53.

Good price series were got on Drumheller coal at October 1947 and 1948 and June 1949. The mine prices on such coal were $6.60 per ton in October 1947, $7.80 per ton in October 1948, and $7.95 per ton in June 1949, a total increase of $1.35. In the same period the freight charges increased by 25¢ but the dealer's margin increased by $1.40 (from $2.30 - $3.70) in Trail, by 40¢ (from $3.00-$3.40, having touched $3.90 in October 1948) in Saskatoon, and by 20¢ (from $3.60-$3.80) in Regina.

The tables make clear that the increase in freight rates is a very minor factor in the change in prices of coal in any of the towns shown in the tables attached to this part of the Submission.

In Table I relating to coal in the Maritime Provinces the relationship between the increase in freight charges and the total increase in prices between the dates shown in the tables vary from a minimum of 10.5% at Edmundston, N.B., to a maximum of 23.5% at Truro, N. S.

In the case of Table II, this variation is from a minimum of 8% at Trail, B.C., to a maximum of 14% at Regina, Sask.

As to Apples: Apples are the most important fruit produced in Canada, and two major areas, namely the Okanagan Valley in British Columbia and the Annapolis Valley of Nova Scotia, depend upon distant markets whether domestic or export. Of the two, the British Columbia producers have had by far the better organization

and the widest distribution. British Columbia apples are sold at a premium right into Nova Scotia. They are therefore the best basis for a test of the effect of freight rates.

The trade practice is for the wholesaler to add 15 percent to his cost and the retailer to add 25 percent. Since apples are a highly perishable product, the trade paid relatively slight attention to past history of prices and were concerned entirely with the present position and the future possibilities. However, it was possible to get some series showing the changes which took place.

So far as can be determined, the last freight rate increase had no effect upon marketing policies. Prices in the 1948-49 season f.o.b. Kelowna were from 4 to 25 percent above the prices on the preceding season. The increase in freight charges on apples shipped from Kelowna to Moncton, N.B. was 17¢ per box, i.e. from 81¢ to 98¢ per box. At that price they were able to sell in competition with local fruit and command a premium which more than compensated for the higher freight cost.

While dealers attempt to maintain roughly uniform markups, there is in the fresh fruit trade an extreme variety of behaviour. Some figured their markups upon the higher prices, some took an unchanged mark-up in money and therefore shrank their markups percentagewise while others actually reduced the markup in money. It is therefore clear that other merchandising factors were quite important in dealing with this commodity.

It is probable that with other conditions unchanged, an increase in the freight charge would have reduced the area over which apples can be distributed, but conditions of supply and of demand vary so sharply from year to year, that it is very difficult to make any generalization upon the influence of transportation charges upon the final price of apples. This is particularly true in a period of high income and of rising prices such as the present.

<u>As to Potatoes:</u> There are four areas in Canada which produce potatoes for other than local sale. They are Prince Edward Island, New Brunswick, Southern Alberta and the Okanagan Valley. Prince Edward Island and New Brunswick are able to command premiums in the eastern market. Dealers stated these premiums as being approximately 10¢ per bag on Prince Edward Island potatoes and 5¢ per bag on New Brunswick potatoes. The Okanagan Valley is similarly able to obtain a premium over potatoes grown upon the coast. This premium exactly offsets the freight charge into Vancouver.

In Eastern Canada the general impression is that prices in the Montreal market set the level for all producers. Since they are purely market prices, they are set to equate supply and demand and pay no regard whatever in the short run to costs. Shippers count upon receiving the Montreal price less freight, but there are fairly substantial variations in the shipper's margin which can move between 2 and 25¢ per bag with 10¢ as a usual figure. It follows that the price to the farmer depends in part upon the shippers spread. For comparison, it may be noted that the increase in the rates from the Saint John River Valley to Montreal at April 1948 was 4½¢ per bag. There is also some variation in wholesaler's margins.

The indications are that there is a firmly established central market price. Therefore producers receive that less freight charges and less a variable amount as shipper's margin.

In the submission of Canadian Pacific the following conclusions can be drawn:-

First: Over the long term, the incidence of freight rates has been upon the consumer.

Secondly: Upon manufactured goods, transportation costs are a very minor part of the overall cost of distribution and they tend to be far over-shadowed by changes in the margins taken by retailers.

Thirdly: On basic commodities such as cement, it is still true that variations in dealers' margins have been greater than any increase in freight charges made at April, 1948.

TABLE 1.

Domestic Coal (a) Prices in the Maritime Provinces in June, 1949, and the Increases therein from October, 1947, in dollars per ton.

	Moncton, N.B.		Saint John, N.B.		Saint John, N.B. (b)		Edmundston, N.B.		Truro, N.S.		Yarmouth, N.S.	
	At June, 1949	Increase from Oct. 1947	At June, 1949	Increase from Oct. 1947	At June, 1949	Increase from Oct. 1947	At June, 1949	Increase from Oct. 1947	At June, 1949	Increase from Oct. 1947	At June, 1949	Increase from Oct. 1947
f.o.b. mines	$10.85	$0.65	$10.85	$0.65)	$12.25	$0.85	$10.85	$0.65	$10.85	$0.65	$10.85	$0.65
Freight	2.20	0.20	2.10	0.20)			2.40	0.20	1.70	0.20	2.60	0.20
Dealers' margin	3.70	0.55	4.05	0.15	3.75	0.15	5.05	1.05	2.90	-	4.30	0.15
Delivered retail price	$16.75		$17.00		$16.00		$18.30		$15.45		$17.75	
Total increase from Oct. 1947		$1.40		$1.00		$1.00		$1.90		$0.85		$1.00
Increased rail charge as a percentage of total increase		14.3%		20.0%		-		10.5%		23.5%		20.0%
Freight charge as a percentage of the dealers' margin	59.5%		51.9%		-		47.5%		58.6%		60.5%	

(a) Screened lump, bituminous, delivered in cars at Sydney, N.S.
(b) Waterborne f.o.b. docks at Saint John, N.B.

October 1st, 1949.

(a)
Domestic Coal Prices in the Western Provinces at June 1949 and the Increases Therein from October 1947, in Dollars per Ton

	New Westminster, B.C.		Trail, B.C.		Saskatoon, Sask.		Regina, Sask.		Winnipeg, Man.	
	At June 1949	Increase from Oct. 1947	At June 1949	Increase from Oct. 1947	At June 1949	Increase from Oct. 1947	At June 1949	Increase from Oct. 1947	At June 1949	Increase from Oct. 1947
F.O.B. mine	$7.95		$7.95	$1.35	$7.95	$1.35	$7.95	$1.35	$7.95	$1.35
Freight	4.40		4.35	.25	3.05	.25	3.65	.25		.25
Dealers' margin	3.90		3.70	1.40	3.40(b)	.40	3.80	.20		.55(c)
Delivered retail price	$16.25		$16.00	$3.00	[illegible]	$2.00	$15.40	$1.80	[illegible]	[illegible]
Increased rail charge as percentage of total increase				8.3%		12.5%		13.9%		
Freight charge as a percentage of the dealer's margin	112.8%		117.6%		89.7%		96.1%			

(a) Drumheller lump coal which is a domestic coal widely used throughout the west.

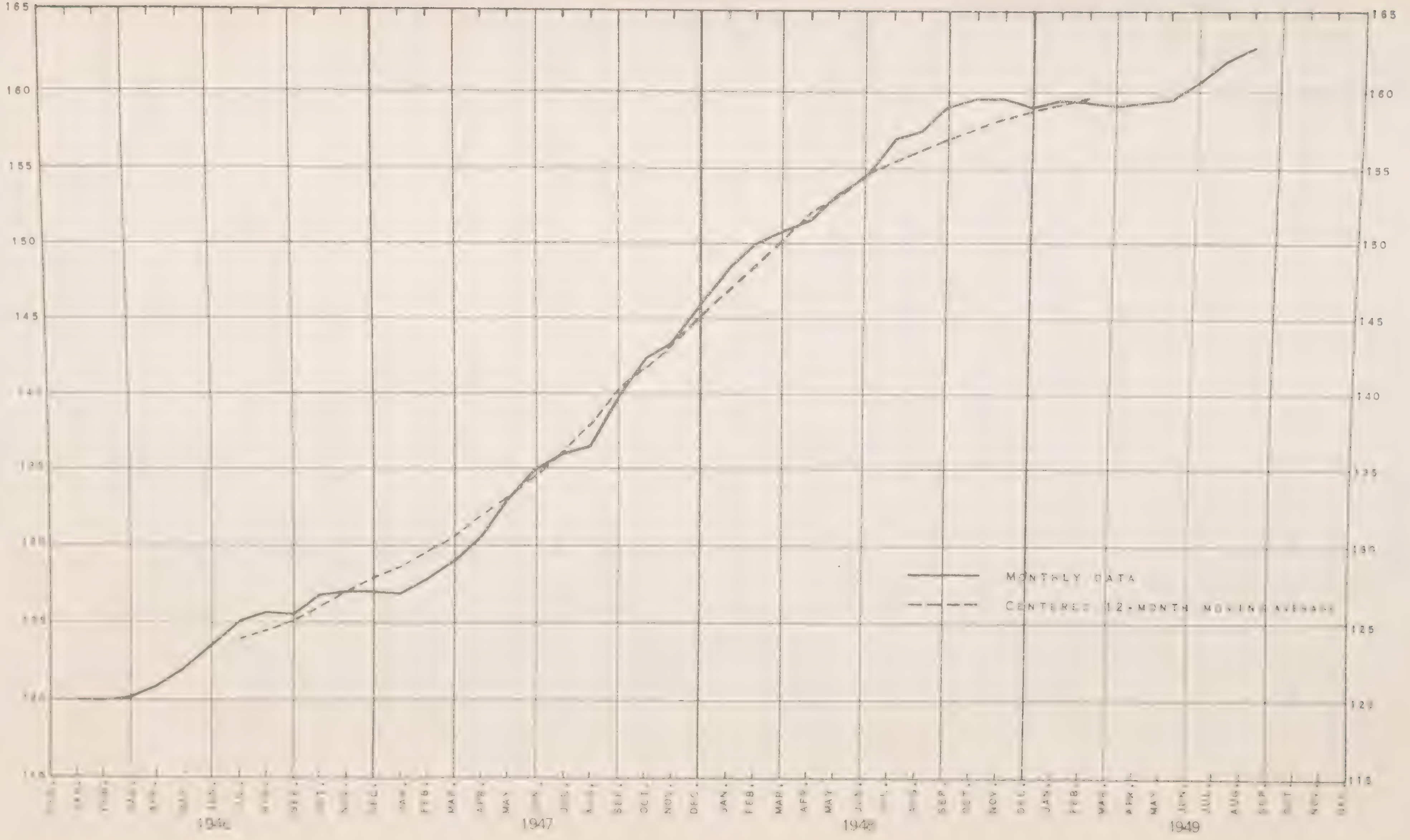
(b) Plus an additional $1.00 per ton if delivered in bags.

(c) This increase in the dealers' margin at Winnipeg is deduced from a knowledge of what happened to the other two factors and not by direct inquiry. It was not possible to collect in the field a specific statement of the dealers' margin at either date.

October 1st, 1949.

THE CANADIAN COST OF LIVING INDEX

(1935-1939 = 100)



THE ECONOMICS OF SUBSIDIES

Many of the submissions to this Commission have taken the subsidies presently given by this country as part of the given institutional structure and have gone on from there to suggest very substantial increases in the total amount to be paid. The Province of Nova Scotia has made a number of recommendations for help to it (and to the other Maritime Provinces) which involve the payment of additional subsidies. The one paragraph which deals with their implementation treats the raising of the funds as a mere matter of routine.

> If the adoption of any of the measures advocated in this submission requires the furnishing of financial assistance from the Dominion Treasury to the Railways, it is respectfully submitted that such assistance should be given.[1]

The Province of New Brunswick has asked for a drastic extension of the Maritime Freight Rates reductions in its transport costs.[2]

The Province of Manitoba contemplates the possibility of direct loans to Canadian Pacific in order to make it possible for it to get capital for expansion at less than market rates in lieu of such an increase in its earning power as would let it raise money through the normal channels.[3] It has also suggested the possibility of a regional subsidy if earnings in Eastern Canada stay low, rather than an adjustment in the general level of rates to bring average earnings up to a desirable level.[4]

The Province of Saskatchewan urges that "an effective freight rate reduction at least equal in degree to that provided for in the Maritime Freight Rates Act, shall be made applicable to all freight shipments (other than those covered by the Crow's Nest Pass Agreement) leaving or entering the Prairie Region."[5] This is, they say, "of paramount importance."[6]

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1. Submission of the Province of Nova Scotia, Sept. 7, 1949, p. 42.
2. Transcript, [illegible] the Royal Commission on Transportation,
3. Manitoba's Submission [illegible], September 12, 1949, Chapter VII, p. 8.
4. Ibid., Chapter [illegible]
5. Submission of the Province of Saskatchewan to the Royal Commission on Transportation, September 12, 1949, p. 124.
6. Ibid, p. 126.

The Province of Alberta, while it has not entered a direct and explicit claim to subsidies, definitely does not rule them out.[7] It has, moreover, put forward the suggestion that the best answer to existing deficiencies in earning power is such a vast out-pouring of capital funds within the Province as to amount to a very great subsidy indeed.[8]

The Province of British Columbia seems to suggest an equalization of all class rates at the level now in existence in the lowest rate territory; and a subsidy to make that level effective throughout the country.[9]

Subsidies are not a remedy for existing discontents which a few suggest haltingly, and with diffidence; they seem to be looked on as a sovereign and universal remedy to be applied in any necessary degree, and without limit as to time. It is true that some of their proponents showed themselves aware that there are objections to the use of subsidies;[10] but, with or without that preliminary bow to the canons of financial orthodoxy, they all, with one accord, accept the subsidies already in existence and look to see what more can be got. It therefore seems desirable to examine subsidies as a fiscal device and to make some estimation, however rough, of the effect which a radical extension in their number and in the amounts given under them would have.

For present purposes, a subsidy may be defined as a payment made out of general taxation by a taxing authority in respect of the production, distribution or consumption of goods, services, and other economic advantages when it would be possible to allocate the actual costs to those who enjoy the goods, services,

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7. Transcript, p. 1964.
8. Ibid., pp. 1957 and 2020.
9. Transcript, pp. 2371-2, 2384-5.
10. Namely Professor Love, of New Brunswick, see Transcript, p. 3947. See also the Manitoba's Submission of Sept. 12, Chapter X, p. 12.

and advantages in direct proportion to such enjoyment.[11] Under that definition, the free use of a sidewalk is not a subsidy because it is not possible to charge the passer-by directly for its use. The nearest approach that can be made to charging for what is received is to assess the property owner for the cost and that is normally done. Water may be furnished on a flat charge basis so long as use is relatively equal, on the ground that it is expensive to furnish a metered service; but it is noteworthy that as soon as air conditioning systems make that hypothesis less tenable, meters are again put forward as the alternative to a very costly increase in the water pumping and supply system. A subsidy differs from these border-line cases in being a conscious attempt to develop a different economic pattern than would be expected to work itself out. Taxation is levied to raise funds, and monies are paid out directly or indirectly to those who would otherwise have been expected to pay for what they receive.

The motive behind the granting of the subsidy is relatively unimportant. It may be an attempt to make direct transfers to those who are regarded as being in special need. It is therefore the assumption by the taxing body of what has been regarded in the past an an obligation of charity. Pensions to the blind may be taken as an example of this kind.

The motive may be to control the manner in which people who are in no special need spend their money. For example, during the late war, a subsidy was paid upon the consumption of fluid milk. It was a subsidy paid to all consumers. Since the period was one of full employment at high and rising wages, and since taxes were increasing at the same time, it was an example of governmental

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11. Cf. the following opinion from the article on subsidies appearing in the Encyclopaedia of the Social Sciences (New York: MacMillan, 1938, Vol. XIV, pp. 430-33).
"....Subsidies always involve an actual outlay in cash or in [illegible]d) by government or government agencies or [illegible] expenditures. [illegible] since in the last analysis the [illegible] purposes and for th[illegible] funds which have been [illegible] subsidies are always calcu[illegible] of the enterprise beyond its extent in an entirely unaided free market they change the competitive position of different parties in either the domestic or the foreign market".....

direction applied to people in employment to determine how they should spend their own earnings. Since all consumers received it, it followed that many of them were far above the income level at which the subsidy could be expected to have any effect on their pattern of expenditure.

The motive may be to make payments to larger social groups or large areas of the country on some general basis and without any demonstration of need, or any attempt to reduce the amount of subsidy paid, even if some substantial proportion of the recipients of the subsidy can be proven to be above the national average in income.

Whatever the reason, subsidies are now paid and in increasing amount, and the appetite for them seems to be increasing even more rapidly. Without any claim to being exhaustive, the following examples may be listed of subsidies currently being given -

The protective tariff

Production and transportation of coal

Production of steel

Production of butter

Production of potatoes

Production of gold

Shipment of feed grain into Eastern Canada and into British Columbia

Maritime Freight Rates

Highway transportation of goods and passengers

Air transportation

Inland water transportation

Housing

The production of fish

The marketing of apples in Nova Scotia

While this list may not be completely inclusive, it covers the major part of the subsidies now given. It is also fairly obvious that unless there are reductions in this list this country will have gone very far toward a denial that the price system is either an effective instrument for the distribution of the national product or that material rewards are a necessary incentive to continuity of effort in any one narrow function inside a whole society. If there is a radical extension of that list it can only come as an acceptance of the view that this country ought to move toward a socialistic system. Here is a primary decision in social policy which must be faced directly and at the highest levels. It cannot be settled by the continuous addition of one subsidy to another - especially when the purpose of many of the subsidies presently proposed is to neutralise those already given.

The initial effect of any subsidy is to give to some group what it could not otherwise have at all, or have so easily, and to assess the cost of that gift against others. It is therefore immediately beneficial to those who receive it, whereas the costs tend to get spread over a large number. In the long run, the result is to retard the redistribution of population and of economic effort in response to current conditions. Its long-run effect must therefore be to bring about a cumulative reduction in the productivity of the country. This is the major ground for opposing the granting of subsidies; but there are also a number of other considerations which in their sum are alone sufficient to deny their value as an instrument of social policy.

First of all, it is impossible to calculate the net subsidy received by any one interest if more than one subsidy is given. A single subsidy is not subject to any deduction. When a second subsidy is added, it is paid in part out of taxes levied on the receivers of the first. The more subsidies are given, the less is the net value of any one of them to their nominal receivers. In the end one comes to a situation in which the effort necessary to protect and, if possible, to increase one's own subsidy plus

the additional taxation necessary to pay all subsidies, overbalances any net gain received and one is left with a situation in which all would gain from a wiping of the slate.

Secondly, the existence of any one subsidy is a powerful argument for the granting of subsidies to others. It may be simply because the defence against such grants has been breached, so that anyone with a claim feels that he has a fair chance to press it successfully. It may be that the existence of a subsidy to one interest creates a competitive inequality so that some other interest asks for a subsidy also to restore the old position.[12]

Thirdly, attempts to redistribute income on this scale inevitably involve a growing burden of taxation. The net benefits from subsidies defy measurement because it is not possible to say what the society would have been like if it had been allowed to develop without them. The one certainty in the situation is that those who are engaged in the collection of taxation have to be supported out of its proceeds and are not available for the production of other values in the commercial and industrial system. The very weight of this taxation and the difficulty of satisfying the rules and regulations of the various taxing authorities provide one more hurdle for the small enterprise to clear, and slows down the creation of small businesses which, in the aggregate, contribute heavily to the total volume of employment.

12. The argument of the Province of Manitoba for the subsidization of railway [illegible] and water competition are most severe, is of this type. See the Submission of September 12, Chapter X, p. 12.

Perhaps the most serious aspect of subsidies (and the taxation to support them) to a country like Canada which depends so heavily on international trade is the fact that they are, in the long run, inconsistent with the permanent interests of the country. At some stage in their development a choice must be made between permitting the full development of such trade and limiting it in order to produce those internal transfers of income to which the government has committed itself over the years. International trade is not consistent with drawing the economic life of the country under the control of its central government. It is possible to argue that the process has already gone too far and should, in justice to those who depend on export production, be reversed; but it is not possible to argue that countervailing subsidies should be paid to export producers. At some stage in the building of such a complicated administrative structure of taxation and subsidies, international trade will find the administrative hurdles too high to surmount.

What has been said above is not a denial that any subsidy is ever justified, nor is it an attempt to deny the stresses which are set up in a society relying upon prices for its balance and control when substantial changes are in process. It is the much more limited statement that subsidies are, by their very nature, so dangerous that they must be treated with the greatest circumspection. The problem is not how to find some worthy recipient of them, it is how to keep from developing a whole chain of subsidies which grow in number and in size until they become unmanageable.

When some large area is faced with a sudden and deep readjustment which is too great to accomplish in the time available without

grave social dislocation, a subsidy is desirable to cushion the shock which is otherwise inevitable. For example, the decline in income in the Prairie Provinces between 1929 and 1932 was based on two factors, the decline in yields and the decline in price. Either one might have been supported with difficulty had it been experienced alone. Together they were overwhelming. It was proper under such a situation to attempt to break the shock and to bring about a more orderly readjustment than would otherwise have been possible.

When subsidies are so used, there should be a direct grant given solely on proof of individual need, and to be in regularly decreasing amounts with a time limit on its life. This does not mean that there may not be occasions when subsidies should be reviewed, and, if need be, extended in the light of new conditions. It only means that no subsidy should be set up without a time limit so that the receivers of it do not develop a vested interest in it. It should also be clear who pays and who receives; and that the receiver is not to lean permanently on the public purse.

When a subsidy has to be given, the fact should be faced honestly and the subsidy given directly. When, for example, there is agricultural distress, the response to it is a subsidy paid to those agriculturists who are in need. When the attempt is made to give it indirectly by compelling a reduction in one of the elements of agricultural production cost, as for example, the Crow's Nest Rates on grain, then not only is the subsidy shared by many who are not in need, but the impact on other shippers is very much greater than if the necessary subsidy had been paid directly from the public purse and its burden spread over the whole economy.

The opinion[13] of the Board of Investigation and Research upon this point is submitted as pertinent:

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13. Public Aids to Domestic Transportation (Washington: 79th Cong. 1st sess. House Doc. No. 159) pp. 88-9.

> The indictment of transportation subsidies is a strong one, to be disregarded only where there are clearly overriding public [illegible] would not otherwise be attained. In this connection, it is well to guard against the inclination to magnify the benefits associated with transportation aids, for the obverse of these benefits is the costs which are necessary to obtain them. Public policy should aim to foster the relative development of each available kind of transportation, according to its capacities for contributing economically and effectively to the transportation system -- all costs considered. In seeking this end, it is important to avoid the tendency, where public expenditures are involved, to exalt the benefits and forget the costs, which are no less real when they are borne by others than those who use the transportation facilities.
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> . . . .
>
> A sound and adequate domestic transportation system is most likely to result if the users of each means of transportation pay the costs which are fairly attributable to their use. Maldevelopment and waste are almost certain to accompany the provision of transportation facilities from public funds at taxpayers' expense, for then the surest guide to sound expenditure is denied -- the calculated judgment of transportation users who indicate their preferences by an effective economic demand. Not only is there the possibility that transportation facilities will be overdeveloped in the aggregate; it is more likely that the different types will not be properly developed relative to each other -- with the result in either case that the over-all costs of transportation (public and private) are increased.
>
> The sound general principle, therefore, is to withhold subsidies to domestic transportation rather than to grant them. Subsidies are at their best when they are extended temporarily to cope with emergency conditions, or to give an initial impetus to a new form or facility of transportation which holds promise of becoming an essential part of a sound and adequate system. On the other hand, financial aids are likely to be at their worst when they must be continuously extended to enable the subsidized type to make its way in the competitive transportation system. If a particular kind or facility of transportation does not require a subsidy for its proper sustenance in meeting essential public needs, an unnecessary bounty is conferred. If a subsidy is required to sustain a certain type of transportation, the question shifts to whether there is a real and compelling public need for the particular transportation facilities which are thus made possible.

This is not a new problem nor one peculiar to Canada. It has been met many times, in many different guises in many countries; but always the answer is the same. Subsidies are dangerous. They are to be used only with caution and with a clear appreciation of the danger that what begins as an honest attempt to help the unfortunate may end as a cancerous growth.

The alternative to a policy of subsidization is to allow the existing price system to work. One can admit all its drawbacks and still make the economic case for it on two grounds. The first is that it compels the taking of corrective steps as soon as disequilibrium develops. When government price-fixing and subsidization are used, the inevitable tendency is to postpone politically unpleasant action until it becomes inescapable. What could have been done in small

corrective steps becomes a landslide.

The second is really another aspect of that first point -- namely the self-cleansing capacities of a free price system. Those whose incomes are a charge on the public purse are not given to removing the source of their livelihood at the earliest moment that it can be dispensed with. It is so also with the receivers of subsidies. There are always reasons why subsidies should be continued, and if they are continued they end by growing themselves and by contributing to the creation of others. That form of waste is much sooner extinguished where responsibility is concentrated and where waste cannot be compensated by drafts upon public revenues. The result is that under a price system the community is healthier and more productive than it could otherwise be. It gets a greater product from the same effort than it possibly could if it refused to submit to this continuous cleansing process.

C.F.H. CARSON

F.C.S. EVANS

OF COUNSEL FOR CANADIAN PACIFIC RAILWAY COMPANY.

MONTREAL, Que., 17th October, 1949.

APPENDIX

OUTLINE SUBMISSION

PART II

The following submissions outline the position of the Canadian Pacific Railway Company in regard to certain matters set forth in the outline of submissions made to your Commission by provincial governments.

1. The submissions of the Province of Alberta.

Part III of the Outline of Submissions by Alberta deals with rate-making principles and the rate structure and includes eight specific recommendations.

(i) Establishment of uniform mixing privileges throughout Canada.

The Canadian Pacific Railway Company has no objection to the establishment of uniform mixing privileges throughout Canada. However, it has never been possible to obtain an agreement between shippers in the East and those in the West as to the basis upon which uniformity could be achieved. The Board of Transport Commissioners has ample authority to hear any complaint with regard to mixing privileges and no question of economic or other policy such as would require the intervention of your Commission is involved in this submission.

(ii) Revision of the Canadian Freight Classification to set up rate classes on the percentage system.

While this recommendation is not specific it no doubt refers to the desire of Alberta and possibly others of the Provinces to adopt rate classes on the pattern of the system used in the United States. The Canadian Pacific is not opposed to

a review being made by the Board of Transport Commissioners of the Canadian Classification. It points out, however, that the setting up of additional classes based upon the so-called percentage system will involve the elimination of a great many commodity rates and re-classification of many of the commodities in the Canadian Classification. This is a matter which is entirely within the powers and functions of the Board of Transport Commissioners which is eminently fitted because of its technical staff and experience in such matters to deal with it. Moreover, Canadian Pacific points out that there is no subject with regard to which time and experience is more necessary than such a study. It accordingly submits thatthe subject is not one falling within the powers of your Commission nor is it, in the submission of the Canadian Pacific, a matter whichshould be dealt with by your Commission even if it had power to do so.

(iii) Unification of class rate scales into a single scale equal approximately to existing Town Tariff or distributing rate scale levels.

Canadian Pacific, in its recent application to the Board of Transport Commissioners for Canada for an increase in freight rates, has indicated its intention, along with Canadian National Railways and the other railway companies parties to such application, of submitting a plan for equalization of certain rates as between different parts of Canada.

The Board of Transport Commissioners in its General Inquiry undertaken in pursuance of Order-in-Council P.C. 1487 has undertaken a "waybill study" based upon five test days, namely: October 13, 1948, January 12, 1949, April 13, 1949, July 13, 1949, October 12, 1949.

This waybill study involves the collection by the railways of all of the waybills covering traffic moving on the test days with a view to determining the amount of traffic moving under the various tariffs on file with the Board together with other data upon which it is possible to determine much of the information essential to a measurement both of the revenue effect of changes in the rate scales and the extent to which differences in such rate scales are reflected in the charges borne by shippers in different parts of the country. No unification of class rate scales into a single scale could safely be undertaken in the absence of such a study. The technical work and an evaluation of the results of the study are eminently matters for the Board of Transport Commissioners and their powers under the Railway Act are entirely adequate to afford any relief sought in connection therewith.

(iv) The extension of such single rate scale to all distances within Canada in order that it may apply as a maximum to the present East-West class rates.

The position of the Canadian Pacific with regard to this item is the same as with regard to Item (iii). Many difficult questions are involved in the suggestion of a single rate scale applying as a maximum to the present East-West class rates. The rates at present in effect are combinations of rates east and west of Fort William. East of Fort William the rates are in many cases "blanketed". Extensive study will be required by the Board and by the railways to determine the effect upon the shipping public and upon the revenue of the railways of any change in this system of rate-making. Studies of the established relationships

as between various industries as well as the effect on other rate scales would have to be made. The Board of Transport Commissioners has adequate power to deal with such a proposal and, while the railways are not at the present time in a position to say definitely what their views will be, it would in any case, in the submission of Canadian Pacific, be a mistake for your Commission to attempt to deal with such questions even if your Commission has power to do so under Order-in-Council P.C. 6033.

(v) Alteration in the application of the constructive mileage principle from the deduction of a constant mileage to the deduction of a constant rate arbitrary, i.e., the establishment of a more satisfactory tapering in the present Fort William and Vancouver terminal rates.

The alteration in the application of the constructive mileage principle may prove to be academic in the event of an equalization of the class rate scales as between Eastern and Western Canada. The principle of equalization, if it can be achieved, would involve the elimination of constructive mileage between Fort William and Winnipeg and between Vancouver and Glacier. These constructive mileage arrangements are advantages enjoyed by Western Canada which must be evaluated in any equalization proposal. They are artificial in concept and in the submission of the Canadian Pacific, should disappear if equalization is undertaken.

(vi) The establishment of distributing rates or suitable proportional rates in Canada on international traffic between the United States and prairie territory.

The position of the Canadian Pacific is as set

forth in Part I of this submission paragraphs 52 and 53.

(vii) The treatment of interline rates on a basis similar to the rates for single line hauls. Distance used in arriving at interline rates should be the shortest route over which carload traffic can be moved without transfer of lading.

This is a very far-reaching proposal and involves the compulsory making of through rates between all railways in Canada. The Railway Act by Sections 336 and 337 gives to the Board of Transport Commissioners all the necessary authority to examine and determine upon the desirability of carrying out such a proposal. The position of the Canadian Pacific is that there is no need for the adoption of such a sweeping general principle. The two principal railway systems in Canada are competitive with one another at all major points. Where exclusive points of one or other of the railways are involved, the railways have in many cases already established through rates and are prepared to examine, in the light of such need, the establishment of through rates to other points where they do not presently exist.

(viii) Competitive rates to be established according to a standard procedure under wich relevant information would be filed with the Board to enable direct supervision of these rates, instead of the present practice of routine approval subject only to specific protests of shippers and other aggrieved parties.

The position of Alberta regarding competitive rates suggests that in the establishment of competitive rates it is desired

that the railways must submit a substantive application to the Board for approval of any competitive rates which the railway company intends to put into effect. The Board of Transport Commissioners has full power to deal with competitive rates so far as it is desirable to regulate the establishment of such rates. Canadian Pacific is opposed to any change on the ground that it would curtail the ability of the railways to meet competition. The Board has full power to deal with such rates on proper grounds where unjust discrimination can be shown and where the rate sought to be established by the railways is either not necessary to meet the competition or is not remunerative.

Part IV of the Outline of Submissions by Alberta as supplemented is sufficiently answered by paragraphs 36 to 39 inclusive of Part I of this submission.

Parts V and VI are sufficiently dealt with in Part I of this submission.

Part VII is sufficiently answered by Part I of this submission but Canadian Pacific draws attention to the fact that Item (b) of Part VII of Alberta's Outline of Submissions as supplemented is insufficiently detailed to enable Canadian Pacific to make any reply at this stage.

Part VIII is answered by Part I of this submission but more specifically Canadian Pacific points out that a more rapid rate of tapering in the rates for longer hauls imposes an additional burden upon shippers having shorter hauls and at the same time imposes limitations upon the ability of the railways to meet motor

competition which is more effective in the case of short hauls than in the case of longer hauls.

With regard to Item (d) Canadian Pacific suggests that if, as a matter of national policy, compensation is to be given to industry for the effects of the application of the customs tariff, such compensation should not be provided by way of lower freight rates or by way of a transportation subsidy.

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2. The submissions of the Province of British Columbia.

The broad general nature of the submissions together with the difficulty of interpreting the exact nature of the proposals which will finally be made, make it difficult for Canadian Pacific to make submissions in reply. The following, however, will serve to outline so far as can be possible at present the position of Canadian Pacific.

Canadian Pacific believes that the cost of service principle cannot successfully be applied in the making of freight rates. At all events such matters are, in the submission of Canadian Pacific, proper matters for submission to the Board of Transport Commissioners in its inquiry under Order-in-Council P. C. 1487.

In this connection Canadian Pacific does not look upon the practice of the Public Utilities Commission of British Columbia in relation to motor carriers as necessarily supporting the position taken by British Columbia on the cost of service principle because motor carriers have not the same obligations as carriers as have railways. Moreover, Canadian Pacific believes that

a thorough investigation of the question as to whether motor carriers are paying their proportionate share of the cost of construction and maintenance of public highways will disclose that such motor carriers are being heavily subsidized by the taxpayers of British Columbia.

Canadian Pacific subscribes to the position taken by British Columbia in the first complete paragraph on page 11 of its submission.

The Outline of Submission contains on page 12 four principal points which in the submission of British Columbia warrant study by your Commission.

As to Point No. 1 Canadian Pacific submits that the Board of Transport Commissioners is fully equipped to carry out any study as to the historical cash cost of railway properties.

As to Point No. 2 the method and rate of depreciation have already been under study by the Board of Transport Commissioners under Order-in-Council P.C. 4678 and are therefore inquiries under special law within the meaning of Section 3 of the Inquiries Act. The submissions of Canadian Pacific on this matter will be found more in detail in Part I of this submission.

As to Point No. 3 this involves a study which Order-in-Council P.C. 4678 has directed the Board to make. So far as these proposals involve the setting up of accounting classifications, the position of Canadian Pacific is set out elsewhere in this submission.

With regard to Point No. 4, Canadian Pacific notes that the study is for the purpose of establishing regulations

requiring the railway companies to maintain their accounts in such a way as to permit the determination of the cost of service. Canadian Pacific does not believe that the cost of service principle can be applied and in any case, if it is to be applied, any regulation respecting the system of accounts for that purpose is properly a matter for the Board of Transport Commissioners.

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3. The submissions of the Province of Manitoba.

The Brief of Points filed by Manitoba is divided into two parts, that is to say, fourteen numbered paragraphs beginning on page 1 together with four separately numbered paragraphs beginning on page 5.

Canadian Pacific submits that so far as is discernible from the Brief of Points referred to, many of the matters are within the jurisdiction of the Board of Transport Commissioners which has all the necessary powers under existing legislation. Other matters are presently the subject of inquiry by the Board of Transport Commissioners under Orders-in-Council P.C. 1487 and P. C. 4678.

Dealing more specifically with the numbered paragraphs in the Brief of Points, Canadian Pacific points out that Points Nos. 1 and 2 appear to involve a laying down by statute of standards of service and maintenance. Canadian Pacific takes the position that standards of service and maintenance are already, so far as is proper, within the power of the Board of Transport Commissioners under existing legislation and, in particular, the question of maintenance standards is the subject of a review by the Board under

Order-in-Council P.C. 4678. Canadian Pacific further submits that standards of service and maintenance can never be laid down in a statute. They must be left to an administrative tribunal which can adjust its requirements to the changing needs of the public and the developments in the science of transportation.

With regard to Point No. 3, if Canadian Pacific correctly interprets it, the proposal is to make a vital change in the powers of the Board of Transport Commissioners with regard to the regulation of freight rates, that is to say, the principle of unjust discrimination, as distinct from that discrimination which is not unjust, should be done away with and the Board left free only to deviate from the general principle of equality where regional costs, competition and the national policy require deviation from that principle. As Canadian Pacific interprets this submission, it is an attempt to make the Board and the railways the instrument of national policy and to impose on the railways a completely inflexible rate structure subject only to exceptions which the railways must affirmatively establish by an application to the Board. If this is the correct interpretation of this submission, Canadian Pacific believes it inconsistent with correct rate-making procedure and indeed inconsistent with that flexibility which is necessary if the changing needs are to be dealt with promptly by the Board and by the railways.

Points Nos. 4, 5 and 6 are supplementary to the proposal made in Point No. 3. In Point No. 6, however, the view is expressed that the principles to be applied are not to be set out exhaustively in the statute nor are they to be rigidly applied. Canadian Pacific submits that to the extent that they are set out

in a statute they must be rigidly applied in order that uniformity of treatment in all cases may be established or, alternatively, that such principles must be surrounded by so many exceptions as to make the statute in effect meaningless. In particular, Canadian Pacific denies that the only provisions in the present Railway Act are that rates should be fair and reasonable and that no guidance is given as to how these terms are to be interpreted. Canadian Pacific submits that the Railway Act and the jurisprudence of the Board of Transport Commissioners contain a very large number of additional principles which guide the Board in interpreting what shall constitute just and reasonable rates.

With regard to Point No. 7, the Board of Transport Commissioners is conducting an inquiry under Order-in-Council P.C. 1487 and this constitutes, in the respectful submission of Canadian Pacific, an inquiry regulated by special law within the meaning of Section 3 of the Inquiries Act.

With regard to Point No. 8, Canadian Pacific makes the same submission as with regard to Point No. 7 except that P. C. 1487 does not by its terms include an inquiry by the Board with regard to the rates for grain and flour moving under the Crowsnest Pass basis of rates.

With regard to Point No. 9, the Board is now conducting an inquiry under P. C. 1487 and has adequate authority to deal with the establishment of additional classes in the freight classification if that should be shown to be desirable.

With regard to Point No. 10, Canadian Pacific submits that the Board was directed to review the matter of depreciation

charges for rate-making purposes under Order-in-Council P. C. 4678 and that such Order-in-Council constitutes an inquiry under special law within the meaning of Section 3 of the Inquiries Act. Part I of this submission contains the other submissions of Canadian Pacific in regard to this point.

With regard to Point No. 11, the Board of Transport Commissioners had evidence before it in the recent freight rates cases and has conducted a review of such questions pursuant to Order-in-Council P.C. 4678.

With regard to Point No. 12, Canadian Pacific concedes that legislation may be required if it is desired to establish a uniform system of accounts for Canadian railways. Its submission in connection with this point will be found in Part I of this submission but Canadian Pacific in any case suggests that if there is to be additional legislation on this subject the accounting divisions ought to be left to regulation by the Board of Transport Commissioners and should not be set out in a statute.

With regard to Point No. 13, the Board has ample authority under Sections 379 to 384 of the present Railway Act to reorganize or improve, if required, the form and content of statistical and accounting reports to be furnished by the railways.

With regard to the second group of points, that is to say, the four points set out beginning at page 5 of the Brief of Points of Manitoba, Points Nos. 1 and 2 are matters at present referred to the Board under Order-in-Council P.C. 1487 and

constitute inquiries under special law within the meaning of Section 3 of the Inquiries Act. In any event, such studies as are there suggested are currently being made by the Board and Canadian Pacific believes that duplication by your Commission of these studies would result in unnecessary delay and expense.

With regard to Point No. 3, inquiries with regard to the standard of maintenance and the other matters regarding maintenance expenses have been undertaken by the Board pursuant to Order-in-Council P.C. 4678 and are therefore for the reasons given in regard to Points Nos. 1 and 2 matters which your Commission ought not to undertake.

With regard to Point No. 4, the submissions of Canadian Pacific appear in Part I of this submission.

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4. The submissions of the Province of New Brunswick.

Ten recommendations are contained in the Preliminary Submission of New Brunswick.

Item No. 1 asks for the restoration of rate differentials existing in the past. This is a subject embraced within the General Freight Rate Inquiry undertaken by the Board pursuant to P. C. 1487 and is an inquiry under special law within the meaning of Section 3 of the Inquiries Act. In any case, the Board of Transport Commissioners has the power, knowledge and experience to deal with such a proposal.

With regard to Items 2 and 3 Canadian Pacific is opposed to an extension of the principle of the Maritime Freight

Rates Act whether to goods imported from Central Canada or in other ways contemplated by Item 3. With special reference to extension of the Maritime preference to imports from Central Canada, Canadian Pacific believes that in many instances this would be detrimental to the interests of industry in the Maritime Provinces.

With regard to Items 5, 6 and 7, Canadian Pacific points out that these suggestions may involve subsidizing competing forms of transport in which event Canadian Pacific suggests that additional subsidies to their competitors could only increase the cost of railway transportation to shippers who would not receive the advantage of alternative means of transport.

With regard to Item 8, Canadian Pacific feels that the Board of Transport Commissioners have ample authority under the Railway Act to consider economic and geographic factors in fixing rates so far as it is proper for such factors to be considered by any administrative tribunal in the fixing of rates. Canadian Pacific further submits that it is wrong to impose on railway companies and upon the freight shippers of Canada any burden arising from economic or geographic disadvantages of other shippers or other parts of Canada.

With regard to Item 9, this matter is already the subject of inquiry by the Board under P. C. 1487. Canadian Pacific submits that horizontal percentage increases are in most circumstances the fairest way of providing increased revenues through general increases in freight rates and no satisfactory alternative to such horizontal increases has been proposed. The Board has full power under the Railway Act

to make exceptions in proper cases and no amendments to existing legislation are necessary or desirable.

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5. The submissions of the Province of Nova Scotia.

The recommendations of Nova Scotia are set forth in paragraph G of the Supplement dated 14th May, 1949.

With regard to Items "G", 1 and 2, Canadian Pacific, as stated elsewhere in this submission, is opposed to any extension of the principle of the Maritime Freight Rates Act.

With regard to Item "G" 3, Canadian Pacific believes that it is desirable to promote the movement of import and export trade through Maritime ports but points out that it is improper to bring about such a result by establishing an unremunerative level of freight rates. Canadian Pacific recognizes that the competition of United States Atlantic ports is a factor to be considered in determining the level of freight rates on import and export traffic moving through Maritime Atlantic ports but it is opposed to freight rates being made the instrument of national policy to achieve this result because the imposition of an artificially low level of freight rates involves adding to the burden of the railways which must in turn be passed on to the other shippers using its services.

With regard to Item "G" 4, it is submitted that this question is pursuant to Order-in-Council P.C. 1487 under inquiry by the Board of Transport Commissioners. The position of Canadian Pacific in regard to horizontal increases appears elsewhere in this submission.

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6. <u>The submissions of the Province of Prince Edward Island.</u>

Canadian Pacific does not operate on Prince Edward Island and its interest therefore is limited to general principles contained in the recommendation of this province.

As to the recommendation in Part 2 Canadian Pacific is opposed to the amalgamation of the railway of Canadian Pacific with that of Canadian National.

As to the recommendations in Part 3 Canadian Pacific elsewhere in its submission has stated its position on the subjects of the Maritime Freight Rates Act and horizontal increases.

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7. The submissions of the Province of Saskatchewan.

The outline of submissions of Saskatchewan is set out under each of the sub-paragraphs of Clause 2 of P.C. 6033 and the reply of Canadian Pacific follows this order.

P.C. 6033 Clause 2(a) - An outline of the position of Canadian Pacific in regard to the proposals of Saskatchewan is set out in Part I of this submission. However, it should be pointed out that the railways have by granting special commodity rates on the primary and secondary products of Saskatchewan materially assisted in the development of its resources. Further, Canadian Pacific does not believe that the competition of ocean and lake carriers "is of little relative benefit to Saskatchewan" but on the contrary, is of the view that the competition and services of ocean and lake carriers have been and are of material benefit in reducing the transportation charges of Saskatchewan shippers particularly in regard to agricultural exports. Canadian Pacific also submits

that the line of railway north of Lake Superior has been of real benefit to western development and has resulted in a lower not higher level of freight charges than would be in effect if United States lines south of Lake Superior were used to join Eastern and Western Canada. The submission of Canadian Pacific on transportation subsidies and the effect of East-West trade channels in Canada are outlined elsewhere in this submission.

P.C. 6033 Clause 2(b) - The position of Canadian Pacific on the matter of competitive rates is outlined in Part I of this submission.

P.C. 6033 Clauses 2(c) and 2(d) - In answer to the submission of Saskatchewan, Canadian Pacific repeats the submission outlined in Part I hereof paragraphs 54 to 67.

P.C. 6033 Clause 2(e) - On the subject of the Canadian National-Canadian Pacific Act, 1933, reference is made to the submission in this regard in Part I paragraphs 68 to 74. Canadian Pacific submits that no useful purpose would be served through a study of unification of all railways under public ownership.

P.C. 6033 Clause 2(f) - In answer Canadian Pacific repeats the submissions outlined elsewhere in this submission.